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# THE SOUTHWESTERN POLITICAL SCIENCE QUARTERLY

VOL. I JUNE, 1920 No. 1

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THE SOUTHWESTERN POLITICAL SCIENCE QUARTERLY is designed to serve as a medium of publication for articles and notes relating to the government and public affairs of the States of Texas, Louisiana, Arkansas, Oklahoma, Arizona, and New Mexico. These States have certain interests in common and are concerned in similar government problems to such an extent that it seems advisable to have a publication which will serve as an organ for the discussion of matters of interest to the entire Southwest. It is the intention of the editors that "political science" shall be understood as comprising the fields now commonly designated in higher institutions as *political science, economics,* and *sociology,* in so far as these subjects relate to and bear upon government, public administration, and the problems connected therewith.

A distinctive feature of the Quarterly is the inauguration of a Division of Latin-American affairs. Owing to the proximity of the Southwest to Mexico and to the Central American States the interest of this section in Latin-America is particularly keen. It is the purpose of this division of the Quarterly to furnish current information of special interest and value and to foster the bonds of friendship between the United States and all of the Latin-American nations.

It is also the purpose of the editors to present items of interest and new suggestions to the teachers of civics, eco-

nomics, and social science in the high schools. The developments along the line of community civics and of the practical devices in improving instruction in social science will be discussed. The Quarterly will thus serve as a clearing house for matters of public interest for the secondary schools and higher institutions of these States, and for interested citizens who are now participating in the consideration and discussion of public affairs.

The editors of the Quarterly will be pleased to receive and to give due consideration to all articles and items of interest which come within the scope of Political Science as above defined. The earnest cooperation of those who are interested in public affairs is urged in order that the Quarterly may become a publication of increasing value to the citizens of the Southwest.

Subject to such changes as may seem expedient the first issues of the Quarterly will be devoted to leading articles in the general field of Political Science, to Latin-American affairs, to news and notes relating to legislation and administration in the Southwest, and to book reviews and notices.

# THE MEANING AND SCOPE OF POLITICAL SCIENCE[1]

HERMAN G. JAMES, UNIVERSITY OF TEXAS

We are met together today to inaugurate the first annual meeting of the Southwestern Political Science Association. According to the constitution of the new association its objects comprise the cultivation and promotion of political science, and its application to the solution of governmental and social problems, with particular reference to the Southwestern States. These objects are to be prosecuted in such manner as the association through its executive committee shall direct by means of the encouragement of research, the holding of public meetings, or lecture courses, and by any other means that may be approved.

Since the general object of this association, as expressed in its title and constitution, is the cultivation and promotion of political science, it would seem to be appropriate to devote some attention at this initial meeting to the discussion of the meaning and scope of that term. Webster's New International Dictionary defines political science as "the science dealing with the organization and government of states." On that description we are willing to stand, for it is at once comprehensive enough and concrete enough to satisfy the requirements of a definition. But as questions have arisen and are arising from time to time as to its full meaning, it seems proper to go into some detail in its examination.

In the first place, objections have frequently been raised against the use of the term "science" in designating this branch of knowledge. This objection is urged most strongly perhaps by students of natural science, who claim that the word science is applicable to physics, chemistry, botany, zoology, biology, geology, and all the other subjects in the field of what is commonly known as natural science, but can not properly be used to designate the subject of gov-

[1]Presidential address at the First Annual Meeting of the Southwestern Political Science Association, Austin, Texas, April 16, 1920.

ernment. Yet Webster says it is a science, and if we would discover whether that is a correct designation let us turn to the definition of a science as given by a recognized authority rather than to the opinions of interested parties who set up their own definition from their own point of view and attempt to rule out those subjects from the field of science which can not come under their home-made definition.

"Science," says the International Dictionary, "is accumulated and accepted knowledge which has been systematized and formulated with reference to the discovery of general truths or the operation of general laws," and a science is "any branch or department of systematized knowledge considered as a distinct field of investigation or object of study." That the study of government has produced accumulated and accepted knowledge and that this knowledge has been systematized and formulated with reference to the discovery of general truths or the operation of general laws can not seriously be denied by any one who has made even a superficial investigation of the subject. Nor, on the other hand, can it be denied either that individuals parade under the banner of political science who have not by study or attitude of mind the slightest claim to being regarded as scientists, or that there is still a vast amount of accumulating of knowledge and of systematizing and formulating of that knowledge with reference to the discovery of general truths or the operation of general laws to be done before political science can even approach full development. But if the existence of charlatans posing as scientists, or the necessity of continual development of the subject, or even the entire rejection of opinions formerly held by recognized authorities, should be regarded as impairing the claim of a branch of knowledge to the dignity of a science, not one of the natural sciences would rest on a secure footing.

That the scientific study of government presents peculiar difficulties no one will deny. Owing to the manifold factors that enter into the result, and to the impossibility of segregating these factors for separate examination and experimentation by the laboratory method, greater care is required in the deduction of conclusions from the data gath-

ered and examined. But the scientific as distinguished from the *a priori* method of approach becomes the more essential because of these very difficulties.

We may, therefore, rest content with correctness of the designation of a science given to this branch of human knowledge. From the time of Aristotle, who described politics or the study of government as the master science, to the present day, political science has been made the subject of investigation and study by the leading thinkers of all nations, though it was not until the eighteenth century that it received general recognition as a proper field for scientific investigation. It would be easy to show that the development of democracy and political liberty in modern times has been intimately connected with the work of the great thinkers and writers in political science, but that would lead us too far astray. Reference need only be made to the profound influence of Montesquieu on American political practice, of Rousseau in France, of Locke, Bentham, and Mill in England, and of Grotius in the field of international law, to illustrate the important role played by leading political scientists in the evolution of governmental institutions.

But let us return to our definition of political science. It is, as Webster says, the science dealing with the organization and government of states. In other words its scope includes every phase of human activities which manifest themselves through political or governmental action. Every aspect of the creation, machinery, and functioning of the state as a political phenomenon comes within the purview of political science. The nature of the state, the form of its government, and its relation to the individual, as well as its relation to other states, all constitute objects of investigation and study in political science.

On its organization side, the form of government, the share of the individual in its constitution, the influence of political parties, the system of local government are special subjects of study.

Equally important is the study of the state in action. The state above all makes laws which govern all its inhabitants. What are those laws, what is their meaning, what

caused their enactment? Political science is concerned with these questions. The laws have to be executed or administered. What is the most effective way of accomplishing the objects sought by legislation? The study of the judicial system and the system of political administration forms an important part of political science. Without taxation no government can exist. How do states secure the necessary funds for carrying on their activities? What merits and defects have different methods of taxation shown? How can the system of taxation be improved? Political science deals with these problems. The tremendous expansion of the activities of the modern state has made these questions more important and comprehensive each year.

No state, since the time of the Roman Empire, at least, exists or has existed unto itself. It is continually coming into contact with other states. How are those relations determined? What are the rights and obligations of states toward each other in peace and war? International law which deals with these questions is a branch of political science.

This recital of the subject matter with which political science is concerned is obviously couched in the most general terms. It would take too long to go into a detailed enumeration of the sub-divisions into which political science is divided, though such an enumeration would give a better picture, perhaps, of the breadth of scope presented by the subject. This general statement is sufficient, however, to show that since government affects every individual from the cradle to the grave, the study of government or political science touches directly or indirectly practically every human activity and relationship. Manifestly such a vast field of investigation is beyond the possibilities of mastery of all of its phases by any single individual. So there have grown up other fields of knowledge or disciplines which go in greater detail into matters which have an important bearing on the problems with which political science has to deal. These other subjects are commonly grouped with political science as belonging to the social sciences, and as their interrelation is by no means clearly understood, it seems nec-

essary in order more fully to grasp the meaning and scope of political science, as employed in the name of the organization now in session, to consider briefly the field of some of these other subjects and their points of contact with political science.

The subjects which are generally grouped with political science under the head of the social sciences, are law, history, economics, and sociology. Each of these subjects, as well as some others that might be added to the list, stand in an intimate relation to political science, and a familiarity with the fields they cover is essential to an understanding of the factors that enter into the political phenomena with which the political scientist has to deal. But they are clearly distinguishable in methods and purposes from political science, proper, even though the topics with which they deal may in some measure be identical.

*Law*—Strictly speaking, the study of law, dealing as it does with the rules of conduct imposed upon individuals by the state and enforced by the government of the state, lies entirely within the field of political science, of which it is really a part. But law, as it is commonly studied, is concerned primarily if not wholly with the question of what the law in any particular state or jurisdiction actually is. That is valuable so far as it goes and is indispensable to the person desiring to practise a profession [illegible] qualifying to the attainment of a certain minimum of acquaintance with the law which is required for admission to practise at the bar. But such information, though constituting the foundation for the study of that phase of political science, is but the basis. In order to be considered a branch of political science the study of the law must go much further than that. It must examine the origin and nature of law, must compare different systems of law, and must systematize and formulate the results of such examination with reference to the discovery of general truths. In that case the study becomes known as jurisprudence and justifies its inclusion under the head of political science. A knowledge of law is, therefore, essential to the political scientist, but such a knowledge does not make a political

scientist, just as a knowledge of mathematics is essential to a physicist while its possession does not make a man a physicist.

Another distinction that can be drawn in the study of law with regard to its relation to political science is that between private law and public law. As has already been suggested, all law is public law in that it derives its sanction from the government and is enforceable ultimately only through governmental action. But most of the law that is made the subject of study in our law schools deals with the relations between private individuals, such as the law of contracts, torts, domestic relations, corporations, sales, or agency. Another part of the law deals more specifically with the relations of the individual to the government and its agencies and this is called public law. Constitutional law, administrative law, the law of municipal corporations are examples of this branch of the law. Because of its more immediate connection with the political relationships of the individual and because of its largely theoretical and conscious evolution, this branch of the law is one which particularly requires the methods of political science for its satisfactory study. It is therefore generally recognized as falling by its nature more properly within the domain of political science than in that of law. It may be and frequently is treated, purely from the point of view of learning what the law actually is. In that case it is not political science. It may, however, be treated from the broader point of view, in which case it falls properly within the domain of political science.

Every student of political science must, then, be a student of law. But not every student of law, unfortunately, has even an inkling of political science. To the extent that lawyers have not interested themselves in political science it is obvious that they are not qualified by reason of their acquaintance with a part of one small field of knowledge within the general subject to render sounder opinions on questions of political science than is the historian, the economist, or the sociologist.

*History*—History, says the International Dictionary, is "a systematic written account of events, particularly of those affecting a nation, institution, science, or art, and usually connected with a philosophical explanation of their causes." The essence of history is the sequence of events, and the sequence of events predicates a more or less extensive lapse of time. History, therefore, inherently deals with the past, not with the present, nor with the future. Consequently the political scientist who is concerned with government as it is and as it will be, or should be, or could be made, begins where the history leaves off. No present-day government can be understood without a knowledge of its past, and much of the data with which political scientists work is gathered from the past. For such data the political scientist is dependent upon the historian. But while the historian makes the investigations on which the accuracy of the data depends, the political scientist must have a knowledge of the data so far as they relate to past developments of governments. For the historians, of course, are concerned with all past events, not merely those relating to government. Much of this has become so specialized as to result in histories of countless phases of existence, many of which have little connection with the study of government. The history of art, of music, of every branch of natural science, of language, of dress, of customs, of inventions, of a host of other matters, including, as has been remarked by some scholar, even the history of the devil, has each developed its own votaries and literature. With these phases of history the political scientist, of course, has nothing to do.

But with the history of government the political scientist is intimately concerned. So far as the history is merely a chronicler of events, his accuracy and exhaustiveness alone are important. But so far as the historian attempts, as Webster says he usually does, to give a philosophical explanation of their causes, and especially where he attempts to go even farther and expound on their effects, his work to be valuable must be founded on a comprehensive grasp of political science, otherwise he lacks the basis on which

to rest such explanation or exposition. For an authoritative history of music we turn to a student of music. For an acceptable history of physics we look to a scholar trained in that science. For a satisfactory history of religion we seek the work of a student trained in theology. In the same way, if historians are to deal satisfactorily with the history of government, they must be students of government. The history of government is, therefore, just as truly a part of political science as the history of science or art is a part of the field of knowledge of that science or art. But so far this has been dealt with, unfortunately, largely by the non-politico-scientific historian.

When, however, the past has been examined, the work of the historian clearly ends. What present conditions in the field of government are is no more the concern of the historian, as historian, than is the question of what the latest fashions in Parisian gowns may be. The garment makers and modistes are concerned with the latter, and the political scientist with the former. For an historian to discuss professionally current international problems is as appropriate as for a political scientist to render a professional opinion as to the probable identity of the Man in the Iron Mask. Even more extreme, if that is possible, is the lapse which occurs when the historian, as historian, sets himself up as an authority on future developments. The historian who in that capacity claims superior knowledge as a basis for lecturing or writing on the problems of reconstruction that are facing the world is to be regarded in the same situation as would the student of government be who in his capacity as political scientist undertook a disquisition on the authenticity of the legend that Nero fiddled when Rome burned

Political science, then, needs the record of governmental events which the historian supplies, and, so far as the historian is qualified by training to make a sound interpretation of those events, it needs that interpretation. But the line of demarcation between the two fields seems sufficiently apparent to need no further discussion here.

*Economics*—Economics is another subject that is closely allied to political science, but which has not always been distinguished therefrom with sufficient clearness. If I refer again to the standard dictionary definition of the subject, as has been done in the case of political science, law, and history, rather than to definitions coined or adopted by some particular writer on the subject it is again for the sake of avoiding partisan or interested definitions advanced either by votaries or antagonists of the particular subject. "Economics," says Webster's International Dictionary, is "the science that investigates the conditions and laws affecting the production, distribution, and consumption of wealth, or the material means of satisfying human desires." Obviously this science deals with a most important aspect of human life, and a familiarity with its principles is essential to the political scientist, if we are to accept the assertion of the Declaration of Independence that governments are instituted among men for the purpose, among others, of securing to them the right to the pursuit of happiness.

But although economics deals with a fundamental phase of human activity, it concerns itself properly with the relations of individuals to each other. When the principles of economics are applied to the organization and government of states, they become by very definition a part of political science. What is sometimes termed "applied economics," therefore, is in reality political science, and comes within the realm of that subject. The economist, like the historian, is concerned in discovering truths that must be understood by the political scientist in examining their bearing on governmental problems. But the application of the theories of economics to the problems of government is the task of the political scientist. The student of economics, unless he is also a master of political science, that is, unless he is a political scientist, is no more competent to apply economic theories to the problems of government than is the political scientist, who has not mastered economics competent to discuss the theories of marginal utility, diminishing returns, or the wage-fund theory. Government control and public ownership of utilities, public finance, trust legis-

lation and all other phases of governmental relation to economic activities are distinctly within the field of political science as distinguished from economics. The political scientist, therefore, needs the findings of economics in his field as he needs the findings of law and history in their respective fields, but with economics as with law and history the political scientist begins where those studies leave off.

*Sociology*—Sociology, another of the social sciences related to political science, is the most recent of these related sciences to appear. Political science, law, and history date back as subjects of investigation and study almost as far as human civilization, certainly to the civilization of the Greeks. Even economics, though dating in its present form only from the close of the eighteenth century, can trace a development back to medieval times. But sociology did not develop as a science until well into the past century, when, therefore, the fields of the other social sciences had become pretty well defined and established. In fact in some countries sociology is not recognized even today as a distinct science.

Sociology, says the dictionary, is "the science of the constitution, phenomena, and development of society." That sounds pretty comprehensive, and if accepted literally would seem to swallow up all other social sciences indiscriminately. But when sociology appeared on the scene many aspects of the constitution, phenomena, and development of society were already definitely a part of recognized and established sciences. The political relations of society were the subject of political science, the legal relations were the subject of law, the economic relations were the subject of economics, and the development of certain aspects of society were the subject of history. What was left for sociology as a distinct science, therefore, were those aspects of the constitution, phenomena, and development of society not included within the social sciences already recognized.

Just what the relation of sociology to the social sciences other than political science may be, where the one properly ends and the others begin, need not concern us here. But we are concerned with the determination of its relation to

the field of political science. So far as the subject of sociology deals with the individual in the group relations of the family, the church, the fraternal and social clubs, it may be infringing on some other recognized field of study, but it is not dealing with subjects that fall in the realm of political science. When, however, it goes into the constitution, phenomena, and development of governmental or political relations it is entering upon a field which was recognized as the proper realm of political science before sociology was so much as thought of. Social legislation, penology, the treatment of defectives, public charity, public health are all obviously governmental subjects that fall within the field of the political scientist, not of the sociologist, unless he be also a political scientist. The mechanics of group life and social control are unquestionably subjects that have a direct bearing on political phenomena and institutions and the political scientist needs to be acquainted with the conclusions of the sociologist in these matters. But the application of these conclusions to the science of government is the domain of the former not of the latter.

Time does not permit of continuing this examination of relationships of political science with other fields of human knowledge, some of which like philosophy, psychology, and anthropology are quite frequently classed with the social sciences, others of which like geography and ethnology, though not commonly so grouped, bear a close relation to these studies. But the principle upon which the determination of these relationships would rest is the same throughout. Wherever the facts or theories of a particular branch of human knowledge exert an influence on the political or governmental phenomena which are the objects for investigation by the political scientist, he needs to grasp those facts or theories to the extent that they do bear any such relation to his subject. Their application to the science of government then is the business of political science and of political science alone. To the extent that authorities in the other fields of knowledge attempt to enter this field they are either launching upon a subject with which they are not competent to deal or they are by training political scientists

and are laboring in that capacity, not in their capacity of authorities in the related fields.

Very likely the question has by this time occurred to you as it has to others, where will you find a competent political scientist if he has to be all things in one, a lawyer, a historian, an economist, a sociologist, and a host of other things at the same time? The answer is simply that the political scientist need not and indeed cannot, in view of human limitations, be an expert in each of these related fields. The architect must know mathematics, mechanics, physics, freehand and mechanical drawing, chemistry, electrical and mechanical engineering, landscape gardening and a score of other subjects that are required for the practice of his profession. The doctor must know anatomy, physiology, bacteriology, biological chemistry, histology, embryology, pathology and a formidable array of other sciences to the extent that they are required in his profession. The captain of a ship must know geography, steam engineering, seamanship, astronomy, meteorology sufficiently to navigate his ship properly. But the architect is not a specialist in all the subjects with which he must be acquainted, each of which has developed its own line of experts. The doctor cannot become an authority in every subject with which he has to be familiar, and each one of which receives the life-time study and investigation of a group of specialists. The sea captain cannot know all there is to be known about astronomy and marine engineering, geography and meteorology, for those are subjects to each of which specialists devote all of their time. These men need to know the results of scientific study in the related fields so far as they bear a relation to their particular work, and their business is to apply this information to the work in which they are engaged. Conversely, the most famous mathematician cannot pose as an architect, the most expert bacteriologist could not practice medicine, the world's greatest geographer could not take command of a ship, unless each in his case possessed the other information requisite for those professions, in which case they would *ipso facto* become architects, doctors, or mariners, so far at least as their qualifications are

concerned. In just the same way the political scientist needs to know law, history, economics, sociology, and the other related subjects to the extent that they bear a relation to his own subject, without attempting to be an expert or authority in those other fields. His business is to apply that knowledge to his subject. By the same sign, the lawyer, the historian, the economist, and the sociologist, no matter how upstanding in their respective fields, cannot qualify as political scientists or undertake to appear as authorities in the field of political science unless they have fitted themselves for that undertaking by becoming political scientists.

It follows from what has been said that political science as a specialized field of knowledge is entitled to its place in our educational system on exactly the same footing as all the other recognized branches of human knowledge. Where political science is taught as an adjunct of history or economics or sociology or law it is not accorded its rightful place, and is usually entrusted to teachers who are essentially trained and interested in the other fields and who teach political science "on the side," which almost inevitably means on the weak side. In all first class institutions of learning, it is true, political science is recognized and put in its proper place, but in a number of colleges and especially in our high schools, the practice of reversing the tail and the dog is all too common and the most important consideration of training for citizenship is neglected accordingly. For obviously the real significance of political science as a study in a democracy lies in its value as the means of developing an electorate informed on questions of government. Without such a trained electorate no democracy can permanently endure. Even the Greeks with their very limited democracy, as we view democracy to-day, realized the fundamental importance of training in political science or citizenship, and the enormous extension of the suffrage which has accompanied modern democracy has increased that importance a hundred fold.

Not only, however, must political science or the study of government receive independent recognition in our schools and colleges if it is to attain to its full usefulness, but within

those institutions its field must be clearly recognized and delimited from the fields of the other social sciences. To set forth the proper delimitation has been one of the main purposes of this paper.

We are met together, then, to launch an organization which is intended to cultivate and promote the study of political science. How broad and fundamental that field is, has appeared, I trust, from what has gone before. We are especially interested in the study of political problems in the Southwest because there is a community of interests and problems that affect these states, though many of their problems are as universal as government itself. Above all, however, we wanted to limit its geographical extent because the advantages of meeting together for papers and discussions can be fully secured only if the distances and the consequent time and expense involved in attendance are not too great. There are national associations for the cultivation and promotion of political science, but they rarely meet west of the Alleghany Mountains and usually on the Atlantic seaboard. Furthermore, their space for publication is so limited that papers or studies of local or sectional conditions can rarely find a place in their journals. With our meetings held in Austin, which is approximately the geographical center of the six states included within this division, it seems possible for many persons who are interested in our purposes to attend our meetings from every part of our territory. With a quarterly journal for the printing of papers and discussions as well as notices of governmental developments of interest in the states included within our territory we hope to provide space enough for all real contributions to the subject.

Our hope is to enlist the interest and co-operation of every person who is concerned about the problems of government, and since every one is affected by them whether interested or not that should mean every thinking person. With such backing it is our confident belief that the Southwestern Political Science Association can become a powerful influence for good in the advancement of governmental standards in these contiguous states. I commend it to your earnest and heartfelt support.

# MUNICIPAL HOME RULE IN OKLAHOMA[1]

F. F. BLACHLY, UNIVERSITY OF OKLAHOMA

The working relationship between our states and their municipal subdivisions has long been a source of discontent. With the increasing congestion of population in cities of more than 5,000 inhabitants, this discontent has increased, until the problem of municipal home rule has become an acute one everywhere. About one-fourth of our states have passed laws giving home rule to cities of certain classes; but the definition of home rule is generally so vague as to do little more than afford an added cause for restlessness and a field for litigation. In order to meet this condition it is necessary to understand clearly the legal and practical relationships of state and city, and to devise a method of altering such relationships in the points which have caused friction. The case of Oklahoma is a typical one, and the study which I have the honor of presenting to this audience was made in the hope that it might help toward the preparation of a working program for improving the status of the city in regard to control over local affairs.

Oklahoma was admitted into the Union late in 1907 with a constitution containing a provision granting cities of over 2,000 population the right to frame their own charters, provided that these should be "consistent with and subject to the constitution and laws of this state." The constitution is silent, however, as to what powers a city may exercise and also as to how far certain affairs are purely municipal. The first state legislature passed a law governing the adoption of charters, the first sections of which exactly repeat the constitutional grant of home rule. The only other section of this act which is important for our purpose is the one which provides that "When a charter for any city of this state shall have been framed, adopted and approved according to the provisions of this article, and any provi-

[1]Paper read at the First Annual Meeting of the Southwestern Political Science Association, Austin, Texas, April 17, 1920.

sions of such charter shall be in conflict with any law or laws relating to cities of the first class in force at the time of the adoption and approval of such charter, the provisions of such charter shall prevail and be in full force, notwithstanding such conflict, and shall operate as a repeal or suspension of such state laws to the extent of such conflict; and such state law or laws shall not thereafter be operative in so far as they are in conflict with such charter: Provided, that such charter shall be consisent with and subject to the provisions of the constitution, and not in conflict with the provisions of the constitution and laws relating to the exercise of the initiative and referendum and other laws of the state not relative to cities of the first class."[1] The Oklahoma courts in interpreting this law have adopted the doctrine that the laws of the state which the home rule charters must be consistent with and subject to are those laws relating to matters of general concern and not those regulating purely municipal affairs.

Some thirty cities of the state have exercised this privilege granted to them by the constitution and have become, in common parlance, home rule cities.

In general, I think it may be safely said that the privilege of making its own charter has only secured to the city a large amount of self-determination in respect to its organization and officers, but has not to any appreciable extent increased its powers. As a matter of actual practice the state exercises not only much legislative control over cities but also a high degree of administrative control. Perhaps the relationship of the cities to the state can best be brought out by examining the methods by which this control is exercised, as well as by examining court decisions governing this relationship.

## Control Over the Organization of the City and Its Charter by the Governor

Action of the Governor is required before a city may finally adopt its own charter. After the charter has been

[1]R. L. 1910, Sec. 539.

proposed by a board of freeholders and ratified by a majority of the qualified electors it must be submitted to the Governor for his approval. He "shall approve the same if it shall not be in conflict with the constitution and laws of this state." Amendments to this charter must also receive his approval. Apparently the Governor is obliged to approve the charter or its amendments unless he finds they are actually in conflict with the constitution or laws. Since no means are provided for controlling the discretion of the Governor in this matter, however, it is evident that he may veto the action of the city in establishing its own form of government. Up to the present time, so far as the writer is aware, this power has never been exercised and the Governor has approved every proposed charter, usually after consultation with the Attorney-General. The courts, therefore, have had the unpleasant duty, in the last analysis, of determining whether or not a charter was in conflict with the constitution or laws. Such a visé on the part of the Governor seems to the writer either to be entirely useless or else places too much responsibility upon him. If the Governor simply approves the charter as a ministerial duty no good is accomplished. On the other hand, if the Governor attempts to say whether the provisions of the charter are, or are not, in conflict with the constitution and the state laws, he undoubtedly is accepting the responsibility, to a large extent, of determining the relationship which is to obtain between the cities and the state. As the same questions which he has to decide might ultimately come before the courts, anyway, there might be some conflict between the executive and the judicial branches of the government. On the other hand, the courts are traditionally unwilling to decide a question of conflict *a priori*, and in any case it is unsatisfactory to give them control over a matter of public policy.

### Administrative Control Over the Officers of the City

A law of Oklahoma, popularly known as the Attorney-General's law, supplements statutes regarding the removal

of unsatisfactory officers by making it the duty of the Attorney-General of the state to investigate complaints of official misconduct made against local and municipal officers. Such investigation must be made when the Governor directs or when a notice verified by five or more reputable citizens of the county is sent to the Attorney-General charging a municipal officer with certain specified acts, or may be made by the Attorney-General on his own initiative. If this investigation discloses a reasonable cause for complaint the Attorney-General institutes, in the Supreme Court of the state or in the district court of the county in which the accused resides, proceedings for the officer's removal. Official misconduct is carefully defined in this act, and includes "willful failure or neglect to diligently and faithfully perform" duties imposed upon the officer by state laws; "intoxication in any public place within the state produced by strong drink voluntarily taken"; the committing of "any act constituting the violation of any penal statute involving moral turpitude." Although this act has been in force but two years, several municipal officials have been removed under its influence although the old forms of procedure have been employed. In the case of Burns v. Linn,[1] the court held that the state may impose upon officers of home rule cities certain specific duties in the enforcement of state laws concerning matters in which the state has a sovereign interest, such as the suppression of gambling, prostitution, and the sale of intoxicating liquors. It held further that the state may remove such officers for misfeasance or nonfeasance in regard to such duties, on the theory that even under constitutional provisions granting home rule, municipal police officers, or other officers exercising sovereign powers, are under the control of the state. In the case of Wooden v. State,[2] this point was further emphasized. The charter of Tulsa makes the mayor the chief executive officer of the city and imposes upon him the duty of enforcing all laws. Under him is the chief of police who is made conservator of the peace with power to arrest in all cases. Both

[1] 49 Okla. 526.
[2] 173 Pac. 829.

state laws and city ordinances prohibit the selling of liquor and gambling. It was alleged that the mayor knew that these laws and ordinances were being violated and yet failed to take action. Upon his trial the court held that since it was the duty of the mayor to enforce state laws his failure to do so was a just ground for removal from office.

While the Attorney-General's law may be of value in removing certain classes of officers, it does not serve as an adequate check upon poor and inefficient administration. No investigational body continually checks the work of the city to keep it up to the standards set forth in the state laws. There is no control over those city officials who have been held by the courts to be responsible for the carrying out of the state's laws within the city, except through the power of removal.

## State Control Over City Elections

Municipal elections, according to the courts, are strictly municipal affairs. The whole subject of such elections is, also, a purely municipal matter in regard to which the general laws of the state may be superseded by charter provisions.[1] However, "such provisions may not supersede the provisions of the constitution of the state." Since the constitution makes it the duty of the legislature to pass laws providing for mandatory primaries for the state, district, county, and municipal officers,[2] the regulation of nominations for all municipal officers is vested in the state legislature and may not be exercised by a home rule city. All cities, therefore, must follow the law in regard to primary elections laid down by the legislature. Since this law provides when primary elections shall be held, provides for election officials, canvassing boards, and certification boards, practically none of the cities of the state have considered it worth while to establish further machinery for regular elections. As a rule they simply follow the state election law in detail.

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[1]Lackey v. State, etc., 29 Okla. 255; 116 Pac. 913; Mitchell v. Carter, 31 Okla. 592; 122 Pac. 691.

[2]Art. 3, Sec. 5.

The carelessness of the framers of the constitution in respect to the primary law thus creates the rather ridiculous situation that municipal elections are regarded by the courts as strictly local affairs while the nomination of the officers to be elected is a strictly state affair. There is little or no dissatisfaction on the part of the cities of the state, however, with this situation.

## Financial Control

The most important direct financial control over Oklahoma cities is in the hand of the county excise board. This board is composed of practically all the county officials, namely: the County Judge, Clerk, Attorney, Treasurer, Superintendent of Public Instruction, Assessor, and one County Commissioner. The control of this board extends to all municipal subdivisions of the state and applies to cities having their own charters as well as to others.

The County Excise Board levies all taxes for the county, and the townships, cities, towns, and school districts within a county. To this board are submitted statements of the financial condition of the county and of all its municipal subdivisions at the close of the preceding fiscal year. Each report is accompanied by an itemized statement of estimated needs and of probable income from all sources other than ad valorem taxes for the ensuing fiscal year.[1] The board has power to examine these estimates, and may revise them if it sees fit, either by striking out, decreasing, or increasing certain items, or by the addition of new items which have not been asked for by the local officials. In case a municipality fails to make and submit an estimate the excise board has the power to make appropriations for current expenses and sinking fund purposes.

Having revised and approved the estimate, the excise board appropriates the amount necessary to meet the approved expenditures. Then, having ascertained the total assessed valuation of the county, and of each of its respective subdivisions, it levies a tax in each for the following year, fixing

[1]R. L. Okla. 1910, Secs. 7380-4.

the rates so as to yield the total amount required for the expenditures which have been approved by it, plus ten per cent for delinquent taxes. This levy is certified to the county clerk who extends it upon the tax roll.

The several items of the estimate as made and approved by the excise board constitute appropriations for the several specific purposes named in the estimate. These appropriations may be used only during the year for which they are made and only for the purposes specified. Transfers between appropriation items may not be made except with the approval of the excise board.

In case the city wishes to increase its current expenses beyond the amount of the ordinary levy, the excise board is again called in.

There has been more adverse criticism in regard to the power of the county excise board over the cities of Oklahoma than any other single phase of state control. This board, it is felt, is not a proper body to supervise such an important municipal function as budget-making. Members of the board are not trained in law, accounting, or administration; they have no particular knowledge of municipal affairs, and no power is given them by which to secure information such as is necessary to pass upon the budget problems of the larger cities, either through the proper kind of reports from the cities or through the agency of a specially trained expert staff. In a large number of cases these board members are selected from country districts and so are not in sympathy with the city and its work. The claim is often made that county officials who are members of this board play politics with the city budget by reducing it as low as possible, since, in the mind of the ordinary voter, the ability to cut down expenditure in any way is commendable.

While this law may have been applicable to the eastern part of the state when it first came into the Union, as there had previously been no organized government in the Indian Territory, and, therefore, some sort of supervision was necessary, the situation has entirely changed within the past few years and the municipal governments, particularly of the larger cities, are under the control of quite responsible

men who have a comprehensive and detailed knowledge of the city's needs.

In respect to the assessment, levying, and collecting of the taxes, the city is almost entirely under the control of the state, at least as far as actual practice goes. The state constitution places a limitation of ten mills upon the rate of taxes the city may levy for current expenses.[1] A state law, supplementing the constitution, fixes the limit at six mills for current expenses, permitting, however, additional taxation for sinking funds and judgments.

Due to this limitation, the cities of the state have found themselves in a very embarrassing situation, caused by the rise of prices during the last few years. Several cities have confessed judgments for ordinary services such as electric lights. As sinking funds to meet these judgments can be collected by taxation, this virtually means that the cities are bonding themselves for current expenses.

Since the assessment of property and the levying of taxes are in the hands of the county the city can not escape from its difficulties by increasing the valuation of the property. As a rule, the elected county assessors only value the city's property at from one-third to one-half its actual value.

In the case of Collinsville v. Ward,[2] the right of a home rule city to provide in its charter for the assessment, levying, and collection of municipal taxes in a manner different from that required or through instrumentalities other than those provided by the general law of the state was questioned. The Collinsville charter had empowered the city to levy and collect taxes for municipal purposes in a manner different from that provided by the general revenue laws of the state. The court held that article ten of the state constitution, providing that "taxes shall be levied and collected by general laws and for public purposes only," was intended only to limit the legislature in the passage of general taxation laws, and did not in any sense operate to prohibit the adoption by cities of charter provisions authorizing the levy

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[1]Art. X, Sec. 9.
[2]165 Pac. 1145.

and collection of taxes for purely municipal purposes. This doctrine has been reaffirmed in several other cases.

While these decisions might seem to give the cities considerable control over taxation, such is not the case. The courts have held quite decidedly that in all those activities in which the state has a sovereign interest the acts of the legislature are supreme. Among those functions in which the state has such an interest are taxation for streets, highways, bridges, schools, public health, elections, and police. It will be easily understood, therefore, that although a city has a right to set up a separate assessing and collecting agency for local taxation, yet, because of the rather limited scope of such powers and the conflicts that might ensue, to say nothing of the large expense involved, cities have not been swift in availing themselves of this right. Practically all Oklahoma cities follow the state taxing laws, therefore, using all the machinery provided by the state.

The assessment of public utilities is in the hands of the state board of equalization, composed of the Governor, the State Auditor, the State Treasurer, the Secretary of State, the Attorney-General, the State Inspector and Examiner, and the President of the Board of Agriculture. This board subjects public utilities to taxation for state, municipal, public school, and other purposes. It makes assessments on the basis of reports furnished by the corporations concerned and of hearings held before it. It has no means of finding out whether the reports are correct, nor does it have any method of really determining valuation. The fact that the State Board of Equalization is composed of ex-officio members necessarily means that they are not experienced in the complicated matters involved in the assessment of public utilities. Even if they were experts, no machinery is given them for determining values, which, therefore, are largely guessed at, or else the valuations placed by the corporations themselves are accepted. It is the feeling of many managers of smaller utilities, and of numerous other persons, that in valuation hearings the larger utilities, being more ably represented and having their affairs more adequately analyzed, secure a much lower valuation than do the smaller

ones. Since the larger utilities are in the larger cities these cities do not receive, it is claimed, as large a share of utility taxes as they should.

The taxation of motor vehicles, which brings in a revenue of something like $600,000 a year, is entirely in the hands of the state. The city is not permitted to levy a tax on such vehicles, though twenty-five per cent of the money collected by each county treasurer from motor cars and vehicles within each incorporated town or city operating under its own charter is paid over to such town or city. This means that the cities of Oklahoma are deprived of an important source of revenue enjoyed by many cities elsewhere. Their discontent with this situation is increased by the fact that their portion of the tax is placed to the credit of the street and alley fund and can be used only for street improvements.

The state exercises control over cities in respect to their bond issues through the Attorney-General, who is ex-officio bond commissioner. He prepares forms and prescribes in detail the methods of procedure under the laws of the state in all cases where it is desired to issue public securities or bonds in any county, township, municipality, or other political subdivision of the state. It is his duty to examine into and pass upon any securities so issued. Such securities, when certified by the Attorney-General, are incontestable in any court in the state unless suit is brought in a court of competent jurisdiction within thirty days from the date of approval.

In the case of in re Bonds of City of Tulsa[1] the question arose as to whether it was necessary for the Attorney-General to pass upon bonds issued under the provisions of the home rule charter and not under any statute of the state. The court held that the phrase "no bonds hereafter issued by any political or municipal subdivision of the state shall be valid without the certificate of said bond commissioner" applied to cities having home rule charters just as it applied to other cities. It was held, however, in the case of City of Lawton v. West,[2] that the provisions of this law

[1] 31 Okla. 648, 126 Pac. 555.
[2] 33 Okla. 395, 126 Pac. 574.

do not apply where street improvements are to be paid for by special assessments. The approval of bonds by the Attorney-General has done much to enhance the value of Oklahoma municipal securities.

## State Regulation of Public Utilities Operating in Cities

The regulation of public utilities in Oklahoma is in the hands of the Corporation Commission. While constitutional powers conferred upon the three commissioners extend only to the regulation of transportation and transmission companies, the legislature is authorized by the Constitution to vest the Commission with additional powers or charge it with other duties. Acting under this authority, the 1913 legislature gave the Corporation Commission general supervision over all public utilities, whether outside or inside of cities, including cities having their own charters.

Granting of franchises, however, is in the hands of the city itself, although the state may exercise control and regulation of "such use and enjoyment." So far the Corporation Commission has exercised no control over the granting of franchises but leaves this matter to the city itself except that it grants permission to telephone and telegraph companies to go through the city. Neither has it attempted to change the terms of existing franchises unless the fixing of rates or the establishment of standards of service has made it necessary to do so.

Whether or not the Corporation Commission has a right to change a franchise granted by a city to a corporation, where part of this franchise involves a contract for a specific rate, was decided in the case of Pawhuska v. Pawhuska Oil and Gas Co., et al.[1] In this case the franchise granted in 1909 provided "said grantee shall furnish natural gas to citizens at a reasonable rate, which shall in no case exceed 15 cents per 1000 cubic feet of gas." The territorial laws gave cities the power to make contracts in respect to the erection of gas or electrical works and this right

[1] 166 Pac. 1058.

was continued after statehood. As has been mentioned before, the 1913 legislature conferred upon the Corporation Commission general supervision over all public utilities, "with power to fix and establish rates * * *"

Acting under this authority the Corporation Commission, despite a fifteen cent provision in the contract made between the City of Pawhuska and the gas company, increased the rate from fifteen to twenty cents per 1000 cubic feet.

The court held in this case that the power conferred upon the Commission by the law of 1913 repealed the 1910 law conferring upon cities the power to contract for the furnishing of gas and electric lights. While the constitution does not expressly confer upon the Corporation Commission this power the legislature, acting in accordance with the provisions of the constitution, has done so. Furthermore, the court held that "the authority granted to the City of Pawhuska * * * was the power delegated to it by the state, and it only had such right until such time as the state saw fit to exercise its paramount authority * * *." No specific authority having been conferred by the constitution upon cities to regulate the charge for gas within their borders, the right existed in the state to withdraw the power delegated to the municipalities whenever in the judgment of the legislature public interest required it. This decision was reaffirmed in the case of City of Durant et al. v. Consumer's Light and Power Co.[1] While, therefore, a city may have the power to grant franchises, this power is very much limited as rates and service conditions, usually forming an integral part of a franchise, may be changed at any time by the Corporation Commission.

## State Control over Health.

State control over city health authorities, particularly in respect to contagious diseases, is largely supervisory in nature. The report of the National Child Labor Com-

[1] 8 Okla. Rep. 460.

mittee says "as a rule, inspection is only made on complaint, cases of contagious disease are not properly isolated * * * and practically no constructive or educational activity is carried on. The health officers frankly state that their salaries are not sufficient to permit them to develop their work and that their private practice comes first. Not only do they give little of their time, but they are loath to take any measures, even when required by law, that might antagonize their clients or fellow physicians." Depending upon counties and cities to furnish health authorities and pay them is certainly not conducive to the proper carrying out of health activities.

It was not until 1917 that the state exercised any adequate control over vital statistics.

A law of 1919, Chapter 17, requires cities and certain other governmental units to make examinations for venereal diseases of all persons confined after conviction in penal institutions, and places upon them the burden of treatment. Even after the expiration of the prison sentence the person being treated must be kept at the prison or some suitable place for treatment until discharged by the health authorities of the state. In case of the inability of the person being treated to pay, the city must stand the expense of this treatment.

The examination of water supplies is under the control of the Board of Health, and every municipal corporation supplying water to the public must file with the Board of Health a certified copy of its plans and surveys together with a description of the source from which the water supply is derived. No water works may be constructed without a written permit from the State Board of Health, nor can changes be made without their permit. No sewer system can be constructed without a written permit from the State Board of Health or until the city has furnished a complete set of plans, maps, and specifications. The State Board of Health is also given authority to examine sewer systems and rivers, and if it determines that pollution exists it has the right to require that the pollution be done away with within a reasonable time. In case the

municipality considers that the requirement is illegal, unjust, or unreasonable, it may appeal for relief to the District Court of the county in which the pollution occurs.

## State Control over School Systems of Cities

The school systems of the various cities of the state are entirely outside the regular city government. Each city of the first class, and each incorporated town maintaining a four years' high school fully accredited with the State University constitutes an independent district, which is a body corporate invested with the usual powers of corporations. Even the finances of the school system are completely outside the hands of the city authorities. While in a number of ways the complete separation of the school system from the city government has much to commend it, from the viewpoint of municipal finance it is far from desirable. Good administration would seem to demand that the expenditures of the city should be viewed in their entirety and in their relation to the total revenue. This of course is impossible under the present system; nor, as things stand, is there any relationship between the city's borrowing policy and that of the board of education.

## Conclusions and Recommendations

Let us summarize, if possible, the rather dry facts we have been considering. First, in the case of a conflict between the provisions of the home rule charter and a state law, if the matter is of a purely municipal or local character, the charter takes precedence; if, however, the matter is of general concern, the state law applies. To quote from an article by Mr. Merrill, "Matters which have been determined to be purely municipal and proper matters for charter regulation include, the form of municipal government, the time and manner of election, and the term of municipal officers, the purchase and sale of public property, the assessment, levy, and collection of taxes for purely municipal purposes, and the passage of local police regula-

tions aimed at the preservation of public peace, health, safety, and morals."[1]

Matters which have been considered to be of general state concern and therefore subject to state control or supervision are: education, health, sanitation, taxation for other than a purely municipal purpose, highways, the regulation of public utilities, the administration of justice, the control of municipal officers performing state functions, and, to a certain extent, control over fire departments. In some of these matters the city has no powers whatever; in others, it acts under state control and supervision.

As we have seen, there is great dissatisfaction among Oklahoma cities over their financial situation. The levying of taxes by the elected County Assessor and the complete control over the budget exercised by the County Excise Board are the chief causes for complaint; while the work of the State Board of Equalization comes in for its share of condemnation. Of course there is no desire on the part of cities to assess either general property or public utilities property within their borders, as the inequalities resulting from such a course would be highly objectionable. Better state administration, however, is necessary. Many thoughtful citizens are advocating a State Tax Commission to replace both the County Assessor and the State Board of Equalization. The control over the budget now exercised by the County Excise Board is so irksome and hampering that the cities are practically unanimous in desiring the abolition of this board, and the vesting in the larger cities of a much greater control over their own budgets than they possess at present.

The control exercised by the state over other functions, such as health, the organization of the city government, and the framing of the charter is also far from satisfactory. This control, as we have seen, is exercised by unconnected, inexpert, untrained, and casual authorities.

In the opinion of the writer a reorganization of the relationship between city and state should include: first, a better method for the assessment and collection of taxes;

[1]Oklahoma Municipalities, May, 1919, p. 21.

second, some share at least by the city government in the financial program of the school system; third, the creation of a local government board to take the place of the casual and haphazard authorities which now control and regulate the city. The first two of these recommendations need little discussion. The third, the principle of a centralized administrative control, though well known in Europe and now in force in some of the Canadian provinces, is new to the United States, so I shall mention very briefly some of its chief features. The local government board should be a body of trained administrators with a large expert staff. By giving the cities large powers, under expert administrative control, the difficulty of the administrative visé and the control over the relationship of the city to the state by the courts would be to a large extent automatically eliminated. By having the board pass upon municipal powers, also, hard and fast state laws definitely limiting the cities would become unnecessary. Such a board could exercise a much more adequate and just financial control over the cities than is exercised at the present time through the Excise Board and the Attorney-General. It might well require financial reports from all cities, act as an auditing authority, supervise the budget, and supervise the borrowing policy of the city. In respect to the budget, it should see that all mandatory amounts are included, and in case the total expenditure asked for in the budget were in excess of the ordinary legal limitation, its approval should be secured. The control over the borrowing policy might well include the sanctioning of plans and undertakings for which cities are borrowing, such as water works systems, electric light plants, gas plants, etc., as well as the certifying that all legal requirements had been met in the issuance of the bonds. Many small cities, at the present time, vote bonds for public utilities without adequate plans and with little conception of the utility as a business. The result is that they soon find themselves unable to carry on such enterprises successfully. The mere fact that the people vote for bond issues is no guarantee that an undertaking will be successful. If all bond issues were first approved

by this board, before being voted upon by the people, there would be reasonable certainty that the undertaking was at least started on a firm basis.

By giving to this board the powers now lodged with the Attorney-General in respect to the removal of officers for misfeasance or non-feasance, and perhaps some added powers of general administrative supervision, the general tone of administration would be greatly raised. Such control is particularly needed in the smaller towns and cities of the state.

Since this board should probably have supervision over county activities as well as those of the city, it would be well, perhaps, to put all the health and sanitary supervision now exercised by the state under its control.

This board, acting in its advisory capacity, would within a short time accumulate a vast amount of important information. Its trained staffs could interpret this information for the cities, thus making it usable. Through such a board the conflicts arising between the state and the city would be largely eliminated, and trained and expert staffs would take the place of the unconnected, haphazard authorities now controlling the city; thus insuring to the cities much more actual freedom than they now possess.

# DIVISION OF LATIN AMERICAN AFFAIRS

HERMAN G. JAMES, ASSOCIATE EDITOR.

## INTRODUCTORY STATEMENT

It is the purpose of the Editorial Board of the Quarterly to include in each issue, under the Division of Latin American Affairs, articles and notes of interest and value bearing on Latin America. The articles will deal with special questions relating to the Latin American countries, and the news items will give a summary of the important current events of political or governmental interest.

In order to make a beginning in this direction, it seemed best to adopt the year 1919 as the basis for the events to be discussed in this initial issue. It would, of course, be highly desirable to go back of that year and make some note of the governmental developments for a decade, or a generation, or even a century past, but limitations of time and space do not permit of the laying of so broad a foundation, however desirable that might be. We shall have to be content with such references to the events in Latin America prior to 1919 as will seem to be required from time to time in explanation of current events as they are taken up.

It is the purpose of the Editorial Board to follow this summary of events for the year 1919 with a similar summary for the first half of 1920 in the September issue of the quarterly, and with a summary for the last half of 1920 in the December issue, thereby bringing the period covered in the review up to date with this issue of the Quarterly. Thereafter, the Division of Latin American Affairs will contain the principal developments during the three months preceding the issue of the Quarterly.

## LATIN AMERICAN AFFAIRS DURING 1919

### *Latin America and the League of Nations*

In order to understand completely the relation of Latin America and the League of Nations, it will be necessary to

recall briefly the relation of the Latin American republics to the Great War. According to Benito Perez-Verdia,[1] eight of the Latin American countries were actual belligerents, having declared war upon Germany. These belligerent nations were Brazil, Costa Rica, Cuba, Guatemala, Haiti, Honduras, Nicaragua, and Panama. Four of the Latin American states, while not declaring war on Germany, severed diplomatic relations, as follows: Bolivia, Ecuador, Peru, and Uruguay. One state, Salvador, declared a benevolent neutrality toward the United States, which entailed the use of Salvadorian ports by the warships of the allied nations without regard to the restrictions imposed by international law on the length of stay of belligerent war vessels in neutral ports. Six Latin American states declared their neutrality, namely: Argentine, Chile, Colombia, Mexico, Paraguay, and Venezuela. The twentieth of the Latin American states, the Dominican Republic, appears to have taken no action in any of the four ways mentioned above.

At the opening session of the Peace Conference at Paris on January 18, 1919, provision was made for representatives of nine of the Latin American countries. These countries included five of the belligerent nations, namely, Brazil, Cuba, Guatemala, Haiti, and Panama, and the four nations which had severed diplomatic relations, Bolivia, Ecuador, Peru, and Uruguay.[2]

There were eleven Latin American countries who appeared as original members of the League of Nations, which included those accorded representatives at the first session of the Peace Conference, noted in the paragraph above; and, in addition, Honduras and Nicaragua, both of whom had declared war on Germany, leaving out only Costa Rica among the Latin American countries who had either declared war on Germany or severed diplomatic relations with her.

The League of Nations Covenant included six Latin American states among those invited to accede to the League of

[1]"Latin America in the War," Current History, February, 1919. p. 358.

[2]Current History, April 1919, page 22.

Nations. These six nations were the states who had declared neutrality during the war, with the exception of Mexico. There remain, therefore, only three of the Latin American states who are not either included as original members of the League or invited by the Covenant to accede, namely, Costa Rica, the Dominican Republic, and Mexico.

The first Latin American state to accept the invitation to accede to the Covenant of the League of Nations was Argentine, which, by a vote of the Senate on July 7, 1919, officially accepted the invitation.[1]

### *The New Constitution of Uruguay.*[2]

On March 1, 1919, the new constitution of Uruguay went into effect, replacing the existing constitution of 1829. The new constitution was prepared by a constitutional convention which finished its work in October, 1917, and was adopted by popular ratification on November 25, 1917, and promulgated on the third of January, 1918.

The new constitution contains some very fundamental departures from the older document, a few of which, by reason of their special significance, may be briefly mentioned.

In the first place, the recognition in the older constitution of the Roman Catholic Church as the established religion has been replaced by a declaration to the effect that the state supports no religion and recognizes the freedom of all religious sects (Art. 5).

In the second place, the new constitution supplements the *jus soli* as the basis of citizenship with the *jus sanguinis* (Art. 7).

The franchise rests on the broad foundation of universal manhood suffrage with the incorporation of the principles

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[1] Current History, August, 1919, page 247.

[2] For the text of the new constitution see p. 195. See also: The Constitutional Review, October, 1919, page 239, "The New Constitution of Uruguay;" and the Journal of Comparative Legislation and International Law, January, 1920, page 60, "The Constitution of Uruguay."

of proportional representation (Art. 9). Woman suffrage both state and local, is provided for only if a two-thirds vote of the membership of each of the chambers so determines (Art. 10).

In the constitution of the legislative powers, there is little material change in the new constitution, except that the property qualification for representatives is abolished. A permanent commission of two senators and five representatives to act during recess of the legislature in safeguarding the observance of the constitution and laws is provided (Arts. 52-56).

Much more significant are the new provisions with regard to the executive power. Here we find introduced the principle of the division of the executive power between the President and a new organ known as the National Council of Administration (Art. 70). The President is now elected by a direct vote of the people instead of by the General Assembly (Art. 71). The term of office is four years, but the President is ineligible for reelection until eight years shall have elapsed after his previous term of office (Art. 73). The duties of the President are listed under twenty-four paragraphs, including the functions in regard to foreign relations and relative to the armed forces of the state which he enjoyed before (Art. 79).

But in the field of internal administration, the President has been largely shorn of his powers in favor of the National Council of Administration, which will be considered in the next paragraph. An interesting provision in the new constitution is the one forbidding the President of the Republic to leave the country for more than forty-eight hours without authority of the legislature (Art. 80).

The National Council of Administration consists of nine members chosen by direct election of the people, together with an equal number of alternates, one-third of the places being accorded to the chief minority party (Art. 82). They are elected for six years, one-third retiring every two years, and are ineligible for reelection until after a lapse of two years (Arts. 85, 88).

The functions of the Council are couched in general terms to include all matters of administration which have not been expressly reserved to the President, or to some other organ of government, and comprise among others, the following: The direction of public instruction, public works, labor, agriculture, industries, public health, financial reports, preparation of the annual budget, and the control of elections. The Council of Administration is required to request the opinion of the President on financial matters, who may disapprove the proposals within ten days at the most, which disapproval can be overridden by two-thirds of the members of the Council.

The Council appoints the ministers, with the exception of the ministers of foreign relations, war and navy, and of the interior.

Apparently, the effect of this division of the executive power is to entrust to the National Council of Administration the more purely internal and non-political functions of the President, leaving to the latter the direction of foreign relations, military, ceremonial, and political activities.

The legislature is made the arbiter in case of conflicts of jurisdiction between the President and the National Council of Administration (Art. 18). Furthermore, the legislature is made the exclusive authority for interpreting or explaining the new constitution, thereby apparently leaving it largely free from any restraints of the constitution, except such as it may wish to acknowledge (Art. 176). The Supreme Court, however, selected by joint session of the two houses, is given jurisdiction over violations of the constitution (Art. 119).

Finally, an important innovation in the new constitution relates to local government. In place of the bureaucratic department heads (*jefes políticos*), there are constituted local representative assemblies and autonomous councils of administration, both chosen by popular vote. The local councils of administration vary in size from three to seven members. The representative assemblies are given the right to impose taxes, with a right of appeal to the legislature either on the part of one-third of the local assembly, a ma-

jority of the administrative commission, the National Council of Administration, or three hundred registered local electors. The right of initiative is given upon a petition of twenty-five per cent of the local voters.

Each department has a chief of police appointed by the President and under his direction to be at the disposal of the local administrative commission for the performance of its functions.

## NEWS AND NOTES

Prepared from the Bulletins of the Pan-American Union and other periodical publications, by C. H. Cunningham, University of Texas.

### ARGENTINA

On September 26, 1919, Congress enacted a law in accordance with the new census providing that for 1920 the House of Deputies should consist of 158 members. One representative shall be elected for every 49,000 inhabitants, or fraction thereof. The membership of the present House of Deputies is 120.

Statistics collected during the latter part of 1918 showed that the funded debt of the Argentine Republic amounted at that time to about 800,000,000 Argentine gold pesos (gold peso=$0.965 American gold). This debt may be classified under the following heads:

| | Pesos |
|---|---|
| National foreign debt | 316,411,204 |
| National internal gold debt | 203,646,500 |
| National internal currency debt $225,879,200 | 99,386,848 |
| Province of Buenos Aires, foreign debt | 148,712,362 |
| Other provinces and municipalities | 35,567,000 |
| Total funded debt of the Argentine Republic | 803,723,914 |

It is estimated by Dr. Albert B. Martinez, who is a well known Argentine financier, that $657,303,460 of the above is owed in foreign countries.

It is also estimated that the total amount of foreign capital invested in the Argentine Republic is 3,882,323,750 pesos. The following is a tabulation of same:

| | Pesos |
|---|---|
| Railroads | 1,344,326,465 |
| Argentina funded debt | 657,303,460 |
| Industrial establishments | 507,760,000 |
| Mortgages | 500,015,962 |
| Commerce | 465,169,244 |
| Tramways | 109,496,149 |
| Real estae companies | 76,681,618 |
| Gas, electric, water, and drainage companies | 78,373,018 |
| Banks | 51,891,022 |
| Meat freezing establishments | 40,916,439 |
| Ports and dock companies | 22,163,909 |
| Telegraph and telephone companies | 21,340,000 |
| Insurance | 3,886,464 |
| Total of foreign capital invested | 3,882,323,750 |

### BOLIVIA

In November, 1919, Bolivia and Columbia signed an arbitration treaty whereby these two nations agreed to submit to arbitration all controversies arising between them. The tribunal of arbitration is to be constituted from among the secretaries of state from various countries of Latin-America.

### BRAZIL

In January, 1919, it was reported officially that the Brazilian government had authorized for that year a continuation of the preferential tariff treatment of certain American products. The law for 1918 authorized a 30 per cent reduction on the importation of flour and a 20 per cent reduction on the duties of certain American manufactured products.

The Brazilian government recently enacted a Workmen's Accident Liability Law which provides for support during a period of three years of workmen who are maimed in the performance of their duty or a pension equivalent to three years salary to the survivors of workmen killed or maimed in the performance of their duty. This provi-

sion obligates the employer to pay this indemnity in all cases except when it is proved that death was due to the carelessness of the operator.

## CHILE

On December, 1918, the Chilean government authorized a federal loan to the municipality of Iquique of 1,500,000 pesos. The proceeds of this loan are to be delivered in installments of not less than 250,000 pesos as the funds are needed. The purpose of this loan is said to be the effecting of necessary municipal improvements such as the construction of sewers, the paving of streets, the construction of a municipal market, the rebuilding of slaughter-houses, and other reforms of similar character.

On March 28 a treaty was signed between Chile and Great Britain providing for the establishment of a peace commission which should solve such disputes as might arise between the two countries, but which could not be settled diplomatically. Such disputes are to be referred to an international permanent commission composed of five members to be appointed as follows:

Each government shall choose one member from its own country, a third and a fourth member from other countries. The fifth member is to be selected co-operatively by both governments. It being understood that he shall not be a citizen of either of the two interested countries.

A recent message of the president of Chile shows the receipts and expenditures of the government for 1918 were as follows: 94,918,327 gold pesos (gold peso equals $0.365) and gold disbursements 72,586,606 pesos; there being an excess of gold receipts over expenditures of 22,337,721 pesos. The receipts in currency amounted to 239,981,714 pesos (paper peso equals ($0.195), the expenditures being 224,128,509, leaving a credit balance of 15,853,655 paper pesos. It was shown that the funds of the government of Chile deposited in foreign banks amounted to 4,000,000. After making the payments required by the foreign debt and the diplomatic and consular services, this fund had a

balance on hand of 2,500,000 and $1,437,000 U. S. currency, the latter sum being deposited in American banks.

A recent decree of the Treasury Department issued regulations for transportation of passengers and freight and provided that passengers or commodities carried between Punta Arenas and other ports of Chile shall not be considered coast wise trade. This enactment provides that after September 9, 1927, freight between Chilean ports shall be exclusively carried in foreign ships with the sole exception of South American vessels, which by special treaty may have obtained from the Chilean government the right to engage in the Chilean coastwise trade. Beginning with the year 1922, however, all vessels engaging in the coastwise trade shall be composed of 50 per cent Chilean seamen and the captain and pilot shall also be Chileans.

An arrangement providing for an exchange of professors between the University of Chile and the University of California has recently been completed. The terms of the agreement are that the University of California shall send to the University of Chile every year two professors and that the University of Chile shall send a like number to the University of California. Those chosen may be professors of the university or of normal schools, industrial, agricultural, and commercial schools. Their term of professorship in the exchange chair may not be less than two years nor more than four. Professors selected shall consider themselves still part of the faculty from the college from which they came and draw their salary from that institution. Traveling expenses shall be paid by the university sending the professor abroad. Exchange professors shall be required to know the language of the country to which they are sent.

Professor Charles E. Chapman of the Department of History of the University of California has been sent to Chile for the academic year of 1920. Mr. W. B. Gregory of the girls' high school of San Francisco, was also sent to Chile. Two professors from Chile are now giving instruction in California on this exchange basis.

On December 12, 1918, a law of domicile was promulgated prohibiting the entrance of foreigners sentenced for or

prosecuted for offenses recognized in Chile as criminal, indigents, foreigners with contagious diseases, and anarchists. This law authorizes the governors of provinces to expel from the country all foreigners of the above mentioned classes.

### CUBA

On August 25, 1918, a teachers' retirement law was promulgated for Cuba covering the following conditions: 1. Retirement for teachers who have served over 25 years, and who request pensions. 2. Teachers who are sixty years or more of age and who have taught not less than ten years. 3. Those who request retirement because of physical or mental unfitness. 4. Those who have been or may be rendered unfit for the exercise of their calling, regardless of the term of service.

Under the terms of this law, a teacher's pension shall on his death go to his widow or children, or to relatives of the first degree, provided he has served not less than five years. The amounts paid in the above classes vary from eighty per cent of the last salary received for those serving 25 years or more to sixty per cent payable to those who have served ten to fifteen years. The right to be retired with a pension can not be alienated in any manner whatever.

### ECUADOR

The following educational statistics for Ecuador for 1918 will be of interest: There are 1,630 primary schools, 1,327 fiscal schools, 168 municipal schools, and 135 private schools, all of which constitute a considerable increase over the 1,400 schools which existed in Ecuador in 1914. It is stated in an official report that the average percentage of school attendance in Educador was 86.65 per cent. The total number of teachers giving instruction in these schools was 2,317, of whom 162 are graduates of normal schools. The appropriation for primary instruction was approximately $650,000 (U. S. Cur.).

### GUATEMALA

A law recently enacted in this republic provides for the arrest and punishment of persons owning, managing, or acting as employees in gambling establishments, or selling or distributing unauthorized lottery tickets.

### MEXICO

An important monetary reform was established by the presidential decrees of October 31 and November 13, 1918. The first of these enactments provided for the mintage of new gold coins of denominations, respectively of, 20, 10, 5, and 2½ pesos. By the second decree referred to, the monetary law of March 25, 1905, was altered and the old silver peso established at that time was withdrawn from circulation. The purpose of this new enactment as far as silver is concerned was to provide a coin with less silver than the old peso which could not be profitably coined thereafter on account of the increased value of silver. The old silver denominations of 10, 20, and 50 centavos were continued in circulation with a proportionate reduction of silver contained therein. The exportation of gold is also prohibited by presidential decree.

The report of the Department of Mines of the Republic of Mexico showed that the total silver exports of this republic during the year 1918 were approximately 1720 tons. During the same year 600,000 tons of coal were mined. The total products of the 282 petroleum wells in Mexico aggregated 58,560,553 barrels, an average of 160,440 barrels a day. During the same year contracts were made for the importation of 12,000 tons of sugar.

It was reported in April, 1919, that an American corporation had contracted for the purchase of 50,000,000 barrels of oil to be taken from wells which are not at present in operation. This oil will be used by the railroads of the United States to which this American company has agreed to effect delivery.

National revenues for 1918 amounted to 149,141,373 pesos. The sources of these revenues were as follows: in-

terior taxes, 90,874,696 pesos; foreign trade, 37,637,908; taxes on refining, assaying and coinage, 475,664; postal system, 4,375,073; telegraph system, 3,851,853 pesos; treasury profits, 1,926,178 pesos; and miscellaneous, including profits from hemp, 10,000,000 pesos.

The budget for 1918 provided for an expenditure of 205-000,000 pesos, while the actual running of the government cost only 150,000,000 pesos, showing a gain over actual expenditures of 55,000,000 pesos.

The banking law of 1897 was in force until the last revolution. Nine banks operated under this law with a total of 68,585,519 pesos. In 1913 there were 20 banks of issue with a total capital amounting to 425,500,000 pesos. There were also mortgage banks, petroleum banks, deposit banks and six branches of foreign banks, besides the national pawn shop which also conducted banking operations. The central bank was a clearing house for the banks of the State. This system was disrupted by the revolution. Today there is one bank of issue. The old issue of 119,700,000 pesos outstanding in August, 1919, is being redeemed and there is now a project, which has not been approved as a law, however, which provides for a sole bank of issue under government control. Under this plan, besides the sole bank of issue there would be mortgage banks, banks of promotion, agricultural banks, petroleum banks and banks of deposit. This law was recommended in a recent session to the National Congress by President Carranza but it failed of passage. It provides for the opening of banks by foreign companies but the latter have been very slow in establishing themselves on account of the uncertainty caused by the failure of the government to enact a banking law.

The message of President Carranza read before the National Legislature in September, 1919, set forth the progress of Mexico in industry and commerce. During the year ending in July, 1919, 3,466 mines were recorded and 764 applications for mining claims were favorably acted upon. There are now 3,736 mines in operation, which constitutes an increase in profits on metals and minerals in excess of 20 per cent. The total value of mining production during the

period mentioned exceeded $152,000,000. In 1918 the production of petroleum amounted to 63,820,836 barrels and it is estimated that for 1919 80,000,000 barrels would be produced. There are now over 1,300 miles of pipe lines for the piping of petroleum in the Republic, facilities existing for the storage of 48,000,000 barrels. The capacity of refineries is 90,000 barrels a day. There are existing in Mexico at the present time 3,805 industrial establishments representing a capital of 240,000,000 pesos and employing 35,000 workmen.

On August 30, 1919, a decree was promulgated by President Carranza providing for the establishment of a commission under the jurisdiction of the Treasury Department for the investigation of claims for damages caused by the revolution of 1910. This law provides for consideration of claims based on damages caused either by the revolutionary forces, by the forces of the legitimate government in the execution of their duties in suppression of the rebels, by the old federal army until its dissolution, and by outlaws, the latter conditioned upon proof that the damage was done as a consequence of the failure of the lawful authorities to afford protection. As soon as the claims and proof accompanying them have been received the commission will render an opinion as to the award to be made and concerning which the interested party will be notified so that acceptance or opposition to such decision may be stated. Appeals from foreigners who fail to accept awards shall be carried to the President of the Republic for his final decision. The period during which claims for damages may be brought shall terminate on September 1, 1920. Claims for subsequent damage must be filed within a year of the occurrence. In case appellants are not satisfied with the decision of the commission the objection will then be submitted to a commission of arbitration consisting of three members, one of whom shall be appointed by the President of the Republic, another by the diplomatic agent of the country to which the claimant belongs and a third who shall be chosen by the first two. In the event of failure to agree upon a third member in this manner, the President of the

Republic is authorized to designate one of disinterested nationality.

Official government statistics indicated a total of 47,978 persons leaving Mexico from September, 1918, to June, 1919, as against 60,068 immigrants, showing an increase in population of 12,050.

The Mexican Government has recently adopted a more definite policy in the matter of advertising the resources of the Republic abroad. This is being done by moving picture films taken under government supervision and direction. Films showing the leading cities, public events, agricultural resources, harbor works, railroads, and other material developments have been taken with a view to distributing same abroad through legations and consulates. It is believed that in this manner, business men and investors can obtain a substantial and accurate idea of the real condition of affairs in Mexico, which will go a long way toward offsetting inaccurate propaganda. It is stated that 80,000 meters of film have already been exposed.

The following official statistics of various kinds are interesting in showing the progress of Mexico during the last years: there are at present eighty-eight foreign consular agents assigned to different cities of the Republic. The Mexican Government had during the year 1919 twenty-three diplomatic commissions abroad; from September, 1918, to August, 1919, seventy foreigners were naturalized in Mexico, and sixty-seven objectionable aliens were deported by the President of the Republic in accordance with Article 33 of the Constitution. One thousand six hundred fifty-six permits to foreigners to acquire real estate in Mexico were issued. Of these, 1,270 were issued to Germans, 93 to Italians, 83 to English, and 59 to Turks. During the last year approximately 52,000 persons received medical aid in the seventeen railroad hospitals maintained by the government. There was an extension of 4,000 kilometers in the facilities of the post office service, and there are now 2,463 post offices in the Republic. The telegraph system of Mexico is operated by the Government. Fifteen new telegraph offices were opened during 1918, and over 12,000,000 messages

were sent and received. Nearly 19,000 kilometers of new lines were constructed and 77,000 kilometers were repaired. At the present time, there is a total of 87,000 kilometers of telegraph lines in the Republic.

The following departments constitute the Secretariat of the Treasury and Public Credit: Administrative, custom house, stamp tax, special taxes, public lands, credit jurisdiction, legislative and statistical affairs.

The latest statistics of the Department of the Treasury regarding the recall of infalsificable paper showed that up to June 30 of the present year 348,944,168 pesos had been collected and burned. It is estimated that at this date there is a residue of only 117,880,702 pesos in circulation.

The number of foreign claims for damages caused by the revolution presented up to date amount to 87. These represent a total of $13,500,000. Of these 33 were submitted by Spanish subjects, 16 by Turks, 19 by Germans, 9 by Americans, and 2 by Chinese.

The net earnings of the Mexican consular service last year exceeded 6,000,000 pesos. This money was collected in foreign countries in connection with the legalization of signatures, custom house manifests, consular invoices, and other notarial services which were effected by consuls. These figures exceeded by a considerable amount the original estimates made by the Department of Foreign Affairs, which anticipated the collection of about 2,400,000 pesos, indicating that the Mexican consular service is one of the few that not only pays its own expenses, but returns a large income to the government.

## PANAMA

Important amendments to the constitution of Panama were adopted on December 26, 1918. By this change the death penalty is abolished. It is provided that any person may exercise any honest calling or occupation. The President of the Republic shall be elected by a direct vote and the term of the deputies of the lower legislative chamber shall be four years.

## PARAGUAY

The following taxes were placed on corporations by a recent enactment of the National Congress. Corporations of from 50,000 to 100,000 pesos capital, 50 centavos per thousand; from 100,000 to 200,000 pesos, 60 centavos per thousand; 200,000 to 500,000 pesos, .70 centavos per thousand; from 500,000 to 1,000,000 pesos, 75 centavos per thousand; and over 1,000,000 pesos, 1.00 peso per thousand. This law also provides for an exemption from taxes of companies with a capital less than 50,000 pesos.

## PERU

On September 30th, 1918, Peru and Bolivia concluded a general compulsory arbitration treaty whereby these two countries agreed to submit to arbitration all disputes which could not be settled through ordinary channels. Under the terms of this treaty disputes which have already been considered and definitely settled cannot be reopened, but questions arising out of the execution and the interpretation of this treaty may be submitted to arbitration at the Hague Tribunal, and there shall be no recourse against the decision rendered by this method of arbitration. The duration of this treaty is five years and it is renewable indefinitely for periods of the same length.

An agreement was also concluded in the latter part of 1918 between Peru and Uruguay whereby legalized diplomas and certificates from educational institutions shall be honored by the institutions of either country; and students will be allowed to enter the schools of each country respectively without being required to pass an entrance examination.

## SALVADOR

Gold coinage has recently been declared legal tender in Salvador. Provision is made for free circulation of United States bank notes in the Republic, and the banks of the country are ordered to accept them as payment for debts

and in connection with exchange transactions. Banks, however, are authorized to charge the usual commission for exchange between American and Salvadorian currency. The introduction of gold coins of the United States has been authorized without the obligation of payment of duties, and banks, corporations, and private concerns may order these coins without any restriction whatever. It has been provided that private parties may export free of duty any quantity of silver desired, provided that such party may guarantee an importation of gold equivalent to the sum received for the silver.

## URUGUAY

An economic and commercial congress of considerable importance was held in Montevideo January 28 to February 8, 1919. Official representatives attended from practically all the Latin American countries. Following are the more important resolutions formulated by this conference.

1. To make known the great need for the establishment of steamship lines between the American countries.
2. To encourage the consumption of American products throughout America.
3. To maintain preference to American capital in railway concessions.
4. To recommend the consideration of international tariffs to the governments represented at the congress with the object of making tariff systems conform and facilitate the exchange of American products.
5. To advise the establishment of ministries of commerce and industry and agriculture in the nations which have no such departments at present.
6. To ask the government of American countries to submit to the second congress, which is to be held in Rio de Janeiro, their most perplexing problems on tarifls and duties. It is also resolved that the principles of arbitration should be approved and adopted in questions arising between countries which are members of the Pan-American Union, and the recommendation was made that commercial

differences of an international character should be settled by arbitration. Certain other important recommendations were made covering the question of credits, international, political, economic, and commercial instruction, the inauguration of suitable courses in preparation for the consular service, and the collection of life insurance and vital statistics.

## VENEZUELA

On June 24, 1918, a new public land law was promulgated, which repealed all previous enactments. Lands are considered unclaimed which are neither the property of any particular person nor public lands, nor lands belonging to corporations. Unclaimed lands may be rented for a period not to exceed fifteen years, but this term may be extended when the lease has been approved. The annual rental paid on these lands shall not exceed three per cent of their value. Any foreigner may buy lands in Venezuela, but no foreign government may either buy or rent lands. Purchases of unclaimed lands are made at the buyer's risk with the understanding that he recognizes the rights of the occupant's consent to them by law. Public agricultural lands may be sold to one person in lots exceeding 1000 hectares not exceeding 5000 hectares for stock raising. Larger quantities may be sold under extraordinary circumstances, such for instance as when it is desired to open up new and undeveloped countries. Sales of public land may only be made with the express authorization of Congress and the purchaser shall pay in full within a period of ninety days.

A recent presidential decree fixes the limit of sizes of claims which any single company may take out for the exploitation of natural resources. One company or person may enter into as many contracts as may be necessary for 100,000 hectares of coal lands. The size of a claim for the exploitation of asphalt or petroleum is limited to 40,000 hectares. A recent presidential decree has authorized the establishment of a political and commercial bureau which is to be under the direction of the Minister of Foreign Affairs. The function of this bureau shall be the compilation

of data concerning the economic and commercial life of the country, the preparation of reports on commercial, economic and financial conditions of foreign countries which would be of interest to Venezuelan commerce; compilation of data on international treaties and agreements as well as laws of foreign countries having to do with international trade, the organization of an international advertising campaign for the marketing of Venezuelan products and for the purpose of drawing attention to Venezuelan resources.

On July 24, 1919, a new alien law was promulgated which contains the following important provisions: aliens shall enjoy the same civil rights as Venezuelan citizens with certain exceptions; aliens are divided into two classes, resident and transient; within fifteen days after arrival in the country aliens shall appear before the civil authorities to prove their identity and testify as to their intention of settling in Venezuela, and set forth the business or occupation in which they intend to engage; aliens shall be exempt from military services and shall be expected to observe strict neutrality in regard to war, national affairs and shall not affiliate with political associations, write for political papers, or discuss political subjects. Any alien who violates these rules shall be considered a dangerous person and may be deported from the Republic. Aliens shall not have recourse to diplomatic channels until all legal means have been exhausted and it is evident that justice has been defeated. Aliens shall have the right, as shall citizens, to indemnity for damages caused in time of war by legally constituted authorities acting in their official capacity. Aliens may not bring claims against the government for damages or loss caused by armed forces of a revolution; but may bring suit against the authors of the damage. Entrance into the Republic is forbidden to aliens who are guilty of crimes, alien mendicants, minors who are not under the care of another person, alien anarchists, and sufferers from leprosy or other dangerous diseases. In case of war or internal disturbances the President of the Republic is authorized to arrest or deport those who interfere with the re-establishment of peace or those who disturb international relations and do not observe strict neutrality.

# THE FIRST MEETING OF THE SOUTHWESTERN POLITICAL SCIENCE ASSOCIATION

On April 16 and 17, 1920, at the University of Texas, Austin, Texas, there was held the first annual meeting of the Southwestern Political Science Association. This new association was organized in the winter of 1919 by the faculty of the school of government of the University of Texas for the purpose of stimulating and promoting the study of political science with particular reference to the Southwestern states. The movement for the launching of this organization grew out of the conviction that persons interested in the study of governmental problems in this section of the country needed the stimulus to be derived from meetings and from the possibility of the publication of a political science journal, which is not sufficiently supplied by the national organizations operating in this field of knowledge. The national association meetings rarely come within a thousand miles of the geographical center of the Southwest and the time and expense involved in attending them make it impossible for any but a very few persons to benefit in that way. Furthermore, the space for publication in the national journals is so limited that discussions of matters of local or sectional interest can not find a place therein. Yet some of these local and sectional questions are of more immediate concern to persons interested in political science than are the more general topics discussed in the national journals. Added to these considerations is the fact that the Southwest has a certain community of interest in historical, economic, social, and political affairs which make it a somewhat homogeneous section, as well as an area sufficiently restricted, in spite of its enormous extent, to make it possible for many persons to attend meetings held within its confines who could rarely, if ever, make the trip to the northeastern portion of the United States in which the national meetings are usually held. Accordingly, Arizona, New Mexico, Texas, Oklahoma, Arkansas, and Louisiana were combined in the territory for which this associa-

tion is to function, with headquarters at the University of Texas. This University, not only by reason of its having developed political science much more extensively than has any other institution in the Southwest, but also because of its central location seemed to be the logical center from which such a movement should emanate.

The first annual meeting comprised a two-day program with four sessions. The first session, presided over by Professor E. R. Cockrell of Texas Christian University, consisted of addresses of welcome to the association on behalf of the state of Texas by Colonel Alvin W. Ousley, Assistant Attorney General of Texas; on behalf of the city of Austin by the Hon. W. D. Yett, Mayor of Austin; and on behalf of the University of Texas by Dr. H. Y. Benedict, Dean of the College of Arts, University of Texas. These were followed by the presidential address of Dr. Herman G. James of the University of Texas, first president of the association, on "The Meaning and Scope of Political Science."

The second session of the meeting, presided over by Mr. C. P. Patterson of the University of Texas, first secretary-treasurer of the association, was devoted to the principal address of the meeting by Professor Albert Bushnell Hart of Harvard University who spoke on "Uncle Sam's Job."

The third session, presided over by the Hon. A. P. Wooldridge, for ten years mayor of Austin, consisted of four addresses. Professor E. R. Cockrell of Texas Christian University read a paper on "Municipal Home Rule in Texas." Professor F. F. Blachly of the University of Oklahoma read a paper on "Municipal Home Rule in Oklahoma." Professor C. G. Haines of the University of Texas presented a paper on "The Reorganization of State Administration," and Professor C. S. Potts of the University of Texas addressed the meeting on "Judicial Reform in Texas."

The fourth session, presided over by Professor C. S. Potts of the University of Texas, was devoted to the general topic of "Women and Government." Professor Mary E. Gearing of the University of Texas spoke on "The Part Played by Women in Government Without the Ballot," and Mrs.

A. C. Ellis, secretary of the Texas Woman's Voters' League, spoke on "The History and Purposes of the Woman's Voters' League." The addresses were followed by a round table discussion of the general topic.

The meeting closed with a dinner in honor of Professor and Mrs. Albert Bushnell Hart, tendered them by the association.

At the business meeting of the association the following officers were elected for the year 1920-1921: President, Hon. A. P. Wooldridge of Austin; first vice-president, Mr. George B. Dealey, president and general manager of the Dallas News, Dallas; second vice-president, Professor F. F. Blachly of the University of Oklahoma; third vice-president, Professor D. Y. Thomas of the University of Arkansas; additional members of the Executive Committee of the association are Professors E. R. Cockrell of Texas Christian University, and E. T. Miller of the University of Texas.

At the meeting of the Executive Committee Mr. C. P. Patterson of the University of Texas was reelected secretary-treasurer for the ensuing year, and Professor C. G. Haines was chosen as editor of the Southwestern Political Science Quarterly. These officers, together with those elected by the association, and Professor H. G. James, as past-president, constitute the Executive Committee of the association.

# CONSTITUTION AND BY-LAWS OF THE SOUTHWESTERN POLITICAL SCIENCE ASSOCIATION

## ARTICLE I

### NAME

The name of this association shall be "The Southwestern Political Science Association."

## ARTICLE II

### OBJECTS

The objects of this Association shall be the cultivation and promotion of political science and its application to the solution of governmental and social problems, with particular reference to the Southwestern States. These objects shall be prosecuted in such manner as the Executive Committee shall from time to time direct by the encouragement of research, the holding of public meetings, or lecture courses, the publication and dissemination of information on governmental topics with particular reference to the Southwestern States, and in any other way the Executive Committee may approve.

## ARTICLE III

### HEADQUARTERS

The headquarters of the Association shall be in the City of Austin, Texas, in connection with the University of Texas.

## ARTICLE IV

### MEMBERSHIP

Membership in the Association shall be open to any individual, club, or library interested in the promotion of the

objects of the Association upon invitation from the Executive Committee, and upon the payment of annual dues, the amount of which will be determined by the Executive Committee.

## ARTICLE V

### OFFICERS

The officers of the Association shall comprise a President, three Vice-Presidents, a Secretary-Treasurer, and the Editor of Publications.

The President and the Vice-Presidents shall be elected at the annual meeting of the Association, and shall hold office for one year, or until their successors are elected. The Secretary-Treasurer and the Editor of Publications shall be members of the Faculty of the University of Texas, and shall be appointed by the Executive Committee.

The officers of the Association and two members to be elected at the annual meeting, together with the Ex-Presidents, so long as they continue their membership, shall constitute the Executive Committee.

The Executive Committee shall constitute the Board of Directors of the corporation and shall conduct the affairs of the Association and report to the annual meeting of the same.

The Editor of Publications of the Association shall be assisted by an Advisory Editorial Board to be chosen by the Executive Committee.

## ARTICLE VI

### MEETINGS

There shall be an annual meeting of the Association at a time and place to be designated by the Executive Committee, for the transaction of business and the discussion of governmental and social problems. Notice of such an annual meeting shall be sent to all members of the Association at least two weeks before such meeting. At the an-

nual meetings, the President, the Secretary-Treasurer, and the Editor of Publications of the Association shall make their annual reports, and the elective officers of the Association for the ensuing year shall be chosen. Such members as are present at the annual meetings shall constitute a quorum. Special meetings may be called by the Executive Committee for the transaction of business or for the presentation of papers and discussions, provided notice thereof is sent to all members not less than two weeks before the proposed meeting.

## ARTICLE VII

### ADVISORY COUNCIL

The Executive Committee may elect an Advisory Council to be composed of persons distinguished for public service whether members of the Association or not, provided they are interested in its work and are willing to give assistance in the formulation and execution of its policies.

## ARTICLE VIII

### BY-LAWS AND AMENDMENTS

The Executive Committee shall have power to adopt by-laws not inconsistent with this constitution, and amend the same at pleasure. This constitution may be amended by a two-thirds vote of the members present at any annual business meeting, provided that all amendments shall have the approval of the Executive Committee, and provided further that notice of the proposed amendment shall be given in the announcement of the meeting.

## BY-LAWS

SECTION 1. The Executive Committee shall meet on call of the President, or on written request of three members thereof. Four members shall constitute a quorum, and the place of meeting shall be at Austin, Texas.

SEC. 2. The Association shall publish a quarterly journal to be known as *The Southwestern Political Science Quarterly*, which shall be sent to all members of the Association.

SEC. 3. The membership dues for active members shall be one dollar ($1.00); for sustaining members, five dollars ($5.00); for contributing members, ten dollars ($10.00); for life members, one hundred dollars ($100.00).

SEC. 4. Membership shall date from the beginning of the quarter following the receipt of the first annual dues.

SEC. 5. Members may resign upon written notice to the Secretary sent before the termination of their year.

SEC. 6. Members who shall be in arrears of dues for more than one year shall be dropped from the membership roll and shall not be re-admitted to membership until all arrears shall have been paid.

# LEGISLATIVE NOTES AND REVIEWS

EDITED BY FRANK M. STEWART
UNIVERSITY OF TEXAS

CONSTITUTION MAKING IN ARKANSAS. In 1917 the Arkansas Legislature called a constitutional convention. The convention assembled in November, 1917, appointed committees to study different questions, and adjourned until July, 1918. On December 14, 1918 the old constitution with the changes suggested by the convention was submitted to the people.

"Some of the noteworthy changes were: provision for woman suffrage; prohibition (already in force by law); attempts at further restriction on local legislation by the legislature; putting the legislators on a salary; providing for quadrennial sessions; forbidding state officials to stand for reelection or to run for another office while in office or to resign in order to run; creating a budget committee; creating the office of lieutenant governor; consolidating the railroad and tax commissions into a corporation commission and making it appointive; forbidding the state, counties, and municipalities to expend for ordinary items any sum in excess of the revenue for the year; allowing the issuance of bonds on the approval of 60 per cent of the electors (now forbidden except to the state); adding two members to the supreme court and allowing it to sit in two divisions; allowing jury verdicts by five- sixths vote in civil and misdemeanor cases; providing for juvenile courts; fixing a minimum of six months for public schools; fixing the location of state institutions where now located so as to hold the university at Fayetteville; extending the initiative and referendum to localities and removing the restriction on the number of amendments which may be submitted under it.

"The constitution was defeated by about 3,376 majority in a total vote of about 44,934. The vote usually polled in gubernational elections is about 165,000."

(EDITOR'S NOTE.—This account of the Arkansas Constitutional Convention is condensed from an article by Professor Thomas in the February, 1919 number of the *American Political Science Review*.)

## NOTES FROM ARKANSAS

PREPARED BY DAVID Y. THOMAS
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LEGISLATIVE PRODUCTIVENESS IN ARKANSAS. The "fourth quarterly conference" of the Arkansas Legislature adjourned February 7 and probably ended the work of a somewhat remarkable legislature.

In 1912 the people adopted an amendment, initiated by petition, limiting the pay of members to 60 days of the regular session and to half pay for the first fifteen days of any special session. Mileage of ten cents is allowed in both cases.

The regular session was not particularly noteworthy except for an enormous amount of special and local legislation. In July a three-days' session was held to ratify the Susan B. Anthony amendment. Later in the year another session was called to correct defects in the road legislation. The work of this session having been declared void by the Supreme Court because of lack of sufficient notice in the call, another session was called to meet January 26, 1920, and sat until February 7.

The constitution forbids local and special legislation when the ends sought can be reached by a general law, but this provision is a dead letter. The acts, general, special, and local, passed in 1905, were published in a volume of 843 pages; those of 1919 fill four volumes of 4343 pages. One volume (522 pages) is devoted to general laws and resolutions, one (1061 pages) to special laws, and two (2760 pages exclusive of contents and index) to roads. The acts passed at the fourth session were about 500 in number and probably will call for two more volumes.

The enormous amount turned out at the fourth session probably was due to reenacting the work of the third ses-

sion. After the legislature had adjourned the validity of one of the acts passed was questioned on the ground that thirty sion. In one day, the Senate passed seventy-two bills, most of which had been taken over from the work rejected by the Supreme Court.

The mass of road legislation turned out by the last legislature of Arkansas gives promise of marked increase in road building. The roads now projected cover 9,600 miles and will cost over $100,000,000. They are being built by road improvement districts, in which the real estate only is assessed, assisted by the State and Federal Governments.

EFFORT TO ABOLISH ARKANSAS CORPORATION COMMISSION. During the special session of the Arkansas Legislature held in January, an effort was made to abolish the Arkansas Corporation Commission. Forty-six municipalities, led by the city of Stuttgart, petitioned for its abolition, but as no reference had been made to it in the call for the special session no action was taken.

The Commission was created by the legislature of 1919 and entered upon its duties April 1 of that year. It is composed of three members appointed by the Governor. The present commissioners, however, were elected as railroad commissioners, the office of railroad commissioner having been combined with the present office.

Senator Houston Emory, the author of the act creating the Commission, now favors amending the act creating it or abolishing it altogether. His reasons for such action, together with the reasons presented by the various municipalities, may be summed up under five heads:

1. Cities and towns can not regulate corporations and public carriers since the act creating the Commission gives this power to the Commission. It permits a utility to surrender its franchise and obtain from the Commission an indeterminate permit to operate but the petitioners hold that a franchise should not be surrendered unless a majority of the city council of the city concerned vote in favor of such action.

2. Municipalities can not build or control their public utilities without first getting the consent of the Commission.

3. The Commission is overworked. It is a physical impossibility, according to Senator Emory, for it to handle properly all the work now assigned it.

4. Objection is made to certain rulings and decisions of the Commission. Among these are:

(a) The rulings which have allowed certain utilities to increase rates.

(b) It is charged that the Commission has adopted a five-mile doctrine which prevents any power company from building within five miles of the plant or lines of an established company.

5. It is claimed that the act creating the Commission "permits unfair discriminations; for example, no existing public utility need ask permission of the Commission to construct any additional utility (whether for purposes of water, light, power, or otherwise), but any city or citizens must obtain a permit from the Commission before such new improvement can be constructed, and this permit must specify that it is a public necessity. Again, any existing public utility has the option of taking an appeal from the action of the Commission either to the county in which it is located, or to the Pulaski Circuit Court, but any city or citizen who desires to construct a new utility must take his appeal to the Pulaski Circuit Court, a county distant from the controversy and unfamiliar with local conditions; and in any event the existing public utility may take its appeal to the Pulaski Court if it desires."[1]

NOTICE OF THE CALL OF A LEGISLATIVE SESSION MUST BE OFFICIAL. In 1919 the Governor of Arkansas called a second special session of the legislature for the purpose of correcting defects in the road legislation passed at the regular ses-

[1]Mr. J. E. Rutherford, a member of the junior class in the University of Arkansas, assisted in the preparation of this note.

days had not elapsed between the call and the assembling of the legislature as required by the constitution. The defense admitted that this was true with respect to the formal call, but contended that the constitution had been complied with since it had been commonly reported in the papers for more than thirty days that a session would be called. However, the court held that the formal call signed by the Governor set the date from which to count the thirty days and ruled out all consideration of common report.

DECISION IN MINING CASE ANNOUNCED. April 20, 1920, the United States District Court sitting at Fort Smith, Arkansas, rendered a second decision in line with the epoch-making decision of 1917 establishing the principle of blanket liability.

In 1914 the coal operators near Fort Smith decided on an open shop policy and prepared to protect their mines with armed guards. When the union miners showed a disposition to interfere, an injunction was issued by the federal judge against the miners, but the troubles increased. Then the situation became acute, application was made to Judge Frank Youmans for quelling the disorders, but he held that the trouble was local and referred the matter to the sheriff. The sheriff declared that the federal injunction had taken the matter out of his hands and refused to interfere. In the course of the troubles several lives were lost and valuable property was destroyed.

In September, 1914, the Bache-Denman Company brought suit for $1,250,000 damages under the Sherman Anti-Trust Law. Judge Youmans sustained the demurrer of the defendants that the acts complained of, viz., the destruction of their mines, did not constitute an interference with interstate commerce and dismissed the case. On appeal the decision was reversed and the case remanded for trial. Judge Youmans then asked to be excused and Judge J. D. Elliott, of South Dakota, took charge.

The plaintiffs now directed their suit against John P. White and others as officers of the United Mine Workers of America and as individuals, against the district and local

officers and unions in the same way, and against a few who were not members of the union, asking for $2,222,000 damages. The trial lasted a month. In his charge to the jury Judge Elliott instructed them to find for the defense, if they found that the mine had been destroyed by an outraged community, not for the purpose of interfering with interstate commerce, but to rid themselves of armed guards whose conduct had made their presence intolerable. But if it appeared that the community had been aroused to action against the guards by the action of union miners done in furtherance of the alleged conspiracy, then the miners should be held liable for the acts which they had incited. He further ruled that if the property had been destroyed as the result of a conspiracy between two members of the union, or between two members of the union and others, the organization, international, district, and local, and individual members, should be held liable. In other words, the union was an entity and was responsible in all its parts for the acts of any two members of any part of the entity.

After considering the case for two days the jury returned a verdict for the plaintiff to the amount of $200,000 actual damages. As the plaintiff had asked for the extreme penalty under the Sherman Anti-Trust Law, this made the award $600,000. On appeal to St. Louis the decision was affirmed and the case is now awaiting decision in the Supreme Court.

The Pennsylvania Mining Company waited until the decision was rendered in 1917 and then brought suit for $100,000 against the same defendants. This trial, which was presided over by Judge Youmans, ended April 20 in a decision for the plaintiffs, the total, including triple damages, being $300,000. An appeal was granted.

## NOTES FROM OKLAHOMA

PREPARED BY F. F. BLACHLY
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CITY MANAGER PLAN SPREADS. During the past year or so thirteen Oklahoma cities have adopted the city manager

form of government. These cities with their managers are as follows:

Coalgate, Leslie E. Bay
Collinsville, F. A. Wright
Madill, F. E. Kennamer
Mangum, R. B. Snell
McAlester, E. M. Fry
Duncan, ————
Erick, ————
Norman, W. R. Gater
Muskogee, R. P. Harrison
Nowata, I. C. Manning
Sallisaw, Fred E. Johnston
Walters, W. B. Anthony
Weatherford, G. A. Critchfield

A very interesting feature of the latest city manager charter, that of Duncan, Oklahoma, is that ice plants are public utilities and that the city is authorized to manufacture ice.

Weatherford, Oklahoma, the first city in the state to adopt the manager plan, has conducted a municipal ice plant successfully for several years.

For the first time in several years Norman, Oklahoma, the city in which the State University is located, will finish its fiscal year without a large deficit. This has been made possible by sound management on the part of city manager W. R. Gater.

NEW CONSTITUTION ADVOCATED. In a recent address at Miami, Governor Robertson declared that the constitution of Oklahoma was an antiquated instrument and advocated the calling of a constitutional convention to draft a new constitution more in harmony with the spirit of the times. Governor Robertson feels that an executive department composed of some fifteen or twenty elected officials makes for gross inefficiency and irresponsibility and also results in many quarrels and endless friction.

NORMALS TO GIVE DEGREES. By a vote of the State Board of Education two years of work are added to the courses of state normal schools and these institutions are authorized to grant degrees of A.B. in Education and B.S. in Education. Such action will virtually place eight institutions in the state in a position of being state supported colleges.

A LARGE GROSS PRODUCTION TAX. Up to April 1 of the fiscal year ending June 30 Oklahoma has collected $2,374,-245.50 from its gross production tax. This is a tax upon the market value of oils and minerals produced in the state. state.

## NOTES FROM TEXAS

PREPARED BY FRANK M. STEWART
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CONSTITUTIONAL AMENDMENTS PROPOSED. Thirteen constitutional amendments, together with a proposal to call a constitutional convention, were prepared for submission to the voters by the regular session of the Thirty-sixth Legislature, 1919. Four of these constitutional amendments were submitted at a special election held on May 24, 1919. They were: (1) Increase of Governor's salary from $4,000 to $10,000 per year; (2) State credit to heads of families to provide or improve their homes; (3) Equal Suffrage; and (4) Prohibition. The Prohibition Amendment was adopted by a vote of 159,723 for to 140,099 against; the other amendments were defeated by majorities as follows: Increase of Governor's Salary, for 108,526, against 193,359; Equal Suffrage, for 141,773, against 166,-893; Credit on Homes, for 141,320, against 152,422.

At the regular election, November 4, 1919, six constitutional amendments were submitted to the electors: (1) $75,000,000 bond issue by the state for the purpose of construction of highways; (2) Increase in the tax rate of cities, towns and counties for public improvements, public roads, etc.; (3) Bond issue for Galveston County and City for grade raising purposes; (4) Separation of the State University and the Agricultural and Mechanical College, and bond issues by each; (5) Increase of rate of state tax for Confederate Pensions; and (6) Permission for prisoners to share in the net proceeds from the State Penitentiary System.

The proposal to call a constitutional convention to meet in 1920 was also submitted at this time.

All amendments and the proposal to call a constitutional convention were defeated.

The three remaining amendments will be voted upon at the regular election in November, 1920. These amendments seek to allow an increase in the tax rate for cities under 5,000 population, to abolish the fee system of compensating public officials, and to raise the limit of local taxation for school purposes.

FEDERAL WOMAN SUFFRAGE AMENDMENT RATIFIED. The Susan B. Anthony Amendment to the federal constitution was ratified by the Texas Legislature in special session in June, 1919. The ratification resolution, House Joint Resolution No. 1, was passed by the House on June 24 by a vote of 96 for to 20 against, and by the Senate on June 27 by a vote of 18 for to 9 against.

BOARD OF CONTROL ACT. An important step in the direction of administrative consolidation and reorganization was taken by the Thirty-sixth Legislature, 1919, in the passage of the Board of Control Act. This act, which went into effect January 1, 1920, created a Board of Control, composed of three citizens of the state appointed by the Governor and Senate for a term of six years, one member of the Board to be appointed every two years. The salary of members of the Board was fixed at $5,000.00 per year. The act places upon the Board the general duties relating to all of the various departments, boards, institutions and public offices abolished by the act, and such additional duties as are required by the act.

To perform these duties the Board may create divisions of its work, as follows: Public Printing; Purchasing; Auditing; Design, Construction and Maintenance; Estimates and Appropriations; and Eleemosynary Institutions.

It is authorized to employ a competent, experienced chief as head of each division.

In brief analysis the organization and duties of the different divisions are as follows:

1. Division of Public Printing; has duties relating to public printing performed by Board of Public Printing and Expert Printer.

2. Division of Purchasing; has duties of Purchasing Agent; purchases all supplies used by all departments of the State Government, State Normal Schools, University of Texas, Agricultural and Mechanical College of Texas, and all other schools, such supplies to include furniture and fixtures and everything except perishable goods, technical instruments and books.

3. Division of Auditing: has auditing duties conferred upon the Board; helps to prepare itemized budget of appropriations which the Board must submit to every biennial session of the legislature.

4. Division of Design, Construction and Maintenance: assumes duties of Superintendent of Public Buildings and Grounds, and Inspector of Masonry, Public Buildings and Works. Designs all state public buildings, parks and landscape gardening. Has custody of all state parks and cemeteries.

5. Division of Estimates and Appropriations: receives from heads of departments, schools, institutions and prison system before September 15 of each year preceding the regular biennial session of the legislature a statement of the expenses of such department, etc., for the past two years and an estimate of the appropriation required for the next two years. Investigates these estimates, conducts hearings and examines all information available, including the reports of its own auditors. Makes up a budget for the legislature which must be printed not later than December 1. Distributes copies to members of the legislature, Governor, heads of departments, institutions, schools, and prison commission, to Speaker of the House and President of Senate; also copies for public distribution, and one to each county judge and to each incorporated bank, state or national.

6. Division of Eleemosynary Institutions. The act abolishes the Boards of Managers for the following state institu-

tions and confers upon the Board all the powers and duties possessed by the various boards in the administration of the institutions—all of the asylums of the state, including the Blind Asylum, Lunatic Asylums, Deaf and Dumb Asylum, Orphans' Home, Deaf and Dumb and Blind Asylum for Colored Youths, State Farm Colony for Feeble Minded, Confederate Home, Epileptic Colony, Confederate Woman's Home, State Tuberculosis Sanatorium, State Juvenile Training School, Girls' Training School and all other similar institutions whether named in the act or not.

On January 1, 1920 the Board of Control Act went into effect and all but one of the offices and boards abolished ceased to function. One board, the Board of Managers of the Southwestern Insane Asylum at San Antonio, refused to acknowledge the jurisdiction of the Board of Control and brought suit in the District Court of Bexar County for an injunction to prevent any interference by the Board of Control in the management of the Southwestern Insane Asylum. The contention of the Board of Managers was that that part of the Board of Control Act which abolished the local boards of managers for eleemosynary institutions was unconstitutional, because it was violative of Section 30a of Article 16 of the state constitution. Upon plea of privilege the case was transferred to the District Court of Travis County. On February 24, 1920 the District Court of Travis County granted a temporary injunction against the Board of Control. Appeal was taken to the Court of Civil Appeals of the Third Supreme Judicial District of Texas. The Court of Civil Appeals certified this question to the Supreme Court:

"Is the act of the Thirty-sixth Legislature, creating the Board of Control of the State of Texas violative of Section 30a of Article 16 of the state constitution?"

In an unanimous opinion delivered on April 14, 1920, by Associate Justice Greenwood the Supreme Court answered "that the act creating the Board of Control is not violative of Section 30a, of Article 16 of the state constitution in so far as it relates to the management of the Southwestern Insane Asylum." The court said, "The mere mention of an

office or of its term, in a constitution, lacks much of creating an office or prescribing the duration for which it is to be held. . . . We can not ascribe to Section 30a any other meaning than as placing it within the power of the legislature to fix terms, at its discretion, for the offices specified, of either six years or of any time not to exceed two years."

# NEWS AND NOTES

By Frank M. Stewart
University of Texas

Major John Alley, head of the Government Department in the University of Oklahoma, who has been studying at Harvard University during the past year, will resume his duties at the State University next fall.

Professor E. R. Cockrell, Dean of the Law School and Professor of Social Sciences at Texas Christian University, Fort Worth, and Mr. Clarence A. Berdahl, University of Illinois, will give courses in Government during the second term of the summer school at the University of Texas.

Professor Herman G. James, University of Texas, will give courses in Political Science during the summer quarter at the University of Chicago.

Mr. John Bass, who has just received his J.D. degree from the University of Chicago, has been appointed Instructor in Government in the University of Oklahoma for next year.

Dr. Charles H. Cunningham, Adjunct Professor of Business Administration and Government, University of Texas, has been granted leave of absence next year to accept an appointment as commercial attaché of the United States Embassy in Mexico.

President J. T. Battenberg, of the Southwestern State Normal of Oklahoma, is inaugurating a "low cost of living" campaign for the summer session. He is placing about 300 cots for boys in one end of the gymnasium, and in the other end he is setting up a first class cafeteria where meals can be had for about $4.00 per week. He figures that it will not cost more than $50.00 or $60.00 for the entire summer

session. He is also arranging jobs for all boys who want to work in the harvest fields for one week at $8.00 per day. One week's work, therefore, will pay for the entire summer session.

Mr. Frank M. Stewart, Instructor in the School of Government, and Secretary of the Bureau of Government Research, University of Texas, has been granted leave of absence for the session of 1920-1921 in order to do graduate work in government and law at Columbia University.

Mr. C. P. Patterson, Instructor in the School of Government, University of Texas, has been promoted to the rank of Adjunct Professor.

The University of Oklahoma has been chosen by the National Research Council as one of the Universities qualified to cooperate in its program for the encouragement and coordination of nation-wide research. President Brooks has appointed five professors as a committee of investigation to report upon matters which have to do with the formulation of a constructive research program for the University which will give the faculty more opportunity for research and which will result in the training of graduate students in research methods.

One recommendation of the committee will be the creation of a permanent Research Committee of seven members appointed by the President of the University with powers (1) To foster the spirit of research in the University of Oklahoma; (2) To prevent the abuse of research privileges; (3) To act in an advisory capacity to the administration in determining the relative importance of different lines of proposed research activity; (4) To aid the administration in securing proper library, room, schedule, apparatus, and other facilities for research; (5) To act in an advisory capacity to the administration in determining what should constitute the schedule of a teacher either personally doing research on a particular problem or directing the research of a number of graduate students; and (6) To

act as a research committee of the University in its relation to the National Research Council or similar organizations.

In order to get data for its report the committee has sent a questionnaire to each department asking information regarding the following items: library facilities; teaching schedule; apparatus and room; research in progress or planned; personnel of department; additional comment. Other recommendations of the committee will be based upon the results of the departmental questionnaire.

"A Syllabus on Studies in Citizenship, prepared especially for the Women of Arkansas," by Dr. David Y. Thomas, Professor of History and Political Science in the University of Arkansas, was published in March, 1920. The syllabus is designed for study in women's clubs and consists of two narts, namely, Our Government in Operation; and The Form of Our Government. Each part is composed of ten lessons covering a study of national, state, and municipal government, and the government of Arkansas. Each lesson is followed by references, topics for investigation and discussion, and a suggested lecture topic. The bulletin also includes a suggested bibliography for use in connection with the course of study.

A School for Training in Citizenship will be conducted at the University of Arkansas July 19-24 for the benefit of the women of Arkansas.

"The Movement for the Reorganization of State Administration," by Dr. Charles G. Haines of the School of Government of the University of Texas, is the title of a bulletin recently published by the Bureau of Government Research. In this bulletin there is presented in summary form an unbiased account of the movement for reorganization of administration in the twenty-seven states in which some effort toward such reorganization has been made. The study is taken up under the following heads: States in which partial reorganization has been accomplished; Proposals for reorganization in other states; Special features of the re-

organization movement; and, Steps toward consolidation in Texas. The bulletin is illustrated by charts, and the text is followed by a bibliography including books, magazine articles, and reports of state committees and commissions, used in making the study.

An honorary fraternity in political science known as Pi Sigma Alpha Fraternity has been established at the University of Texas. The fraternity was established to meet the need for a professional society in Government. The constitution provides for a national organization and local chapters. Membership is limited to students who have done exceptional work in political science.

The Eighth Annual Convention of the League of Texas Municipalities was held at Dallas, Texas, May 13-15, 1920. Papers and addresses covering many phases of municipal government and administration were delivered. The proceedings will be published in the May and July numbers of *Texas Municipalities.*

The teachers of Civics and Social Science will be interested in the course of study in civics recently prepared for the public schools of Philadelphia. The course is published in two parts including Part I, which comprises an outline for instruction in civics from grades one to six, and Part II, which comprises a course of study for grades seven and eight. These outlines are largely the result of the efforts of Dr. J. Lynn Barnard of the School of Pedagogy of Philadelphia who with many others has been working on the courses of study in Civics for elementary and high schools, as a representative of the Bureau of Education, and as a member of a committee of the National Education Association. The general plan for Social Science on which Dr. Barnard and the National Committees have been working is comprised in a proposed outline which is under consideration now by various associations, including the National Education Association, the American Historical Association, and the American Political Science Association. The outline as herein offered is merely suggestive, but it indi-

cates the general trend by which instruction in civics is to be offered for a brief period at least in every year of the public schools from grade one to grade twelve:

### Course of Study for Training in Citizenship in the Schools[1]

1. Training in citizenship demands courses in History and Civics throughout the twelve years of school life. It also involves the use of the entire course of study, all pupil activities and the school organization.
2. Training in citizenship must be continuous and cumulative throughout the twelve years.
3. The course as recommended is as follows:

*Elementary School*

| HISTORY | CIVICS |
|---|---|
| Grades I-III | Grades I-IV |
| Stories from History and mythology grouped around the celebration of holidays and festivals and describing pioneer life and the life of primitive peoples. | Civic virtues: Obedience, helpfulness, punctuality, truthfulness, fair play, thoroughness, honesty, courage, self-control, perseverance, thrift, etc.; taught through stories, poems, songs, pictures, games, dramatization, and various pupil activities; object—habit-formation, that shall both cultivate the civic virtues and afford a basis of social experience for the interpretation of new social situations as they shall arise. |
| Grades IV-VI | Grades III-V |
| Important historical incidents and biographical stories from the history of America. | Community Cooperation: Those who furnish us food, clothing, shelter, medical aid, light, transportation, protection, etc.; taught through pupil observation of the life around them, trips, reports, and class discussions; object—to learn the service rendered by the community, the interdependence of each member of the community on the others, and the cooperation that alone makes that interdependence possible. |

[1]For a copy of this tentative outline the editors of the Quarterly are indebted to Dr. J. Lynn Barnard of Philadelphia.

| | |
|---|---|
| Grade VI | Grade VI |
| Important historical incidents and biographical stories from the history of Europe. | Industrial Cooperation: A study of community service through occupations, the qualifications for each, and the mutual relations that should prevail between employer and employee. |

*Junior High School*

| | |
|---|---|
| Grades VII-VIII | Grades VII-VIII |
| The United States in its world relationships. | Community Organization: Emphasis upon community organization—local, state and national—for common purposes; cooperation through voluntary and governmental organization; leadership and the control of leadership. |
| Grade IX | Grades VII-VIII |
| Current events to carry along the history thus far covered. Emphasis in this grade on Civics. | Industrial Organization: The development of an appreciation of the social significance of all work; of the social value and interdependence of all occupations; of the opportunities and necessity for good citizenship in vocational life; of the necessity for social control, governmental and otherwise, of the economic activities of the community; of how government aids the citizen in his vocational life; and of how the young citizen may prepare himself for a definite occupation. |

*Senior High School*

| HISTORY | SOCIAL SCIENCE |
|---|---|
| Grade X | |
| The Modern World: World history since the middle of the seventeenth century, with emphasis upon political, social, and economic development, showing progress towards world democracy. Attention should be given to the origins of the institutions found in the seventeenth century. | |

Grade XI

The Modern World: United States History during the national period, treated topically, and with critical comparisons with institutions and tendencies in other countries.

**Grade XII**

**The Modern World: The problems of democracy, leading into the elements of Sociology, Economics, Political Science, and Practical Government—inductive method.**

## BOOK REVIEWS

### THE PEACE[1]

The war has been a world war—the peace needs to be primarily a European peace. It concerns the rest of the world—only at second remove—and, primarily, only in so far as it might be an instrument of preventing or greatly minimizing the danger of war in the near future. The peace, then, had a double aspect; the immediate, the European, the healing; the secondary, the world, the preventive. The first aspect is represented by the treaty, the second by the league. It is evident without further statement that the healing peace must come before the preventive, that Europe needs to get on her feet again before one can think of organizing the future. A glance at the state of Europe immediately after signing the armistice will make this clear.

The first thing we see is a Europe lacking in food, in fuel; lacking in raw material for its factories and lacking in manufactured articles for its fields and homes; a blockade preventing the importation of things needed in Central and Eastern Europe and an artificially maintained currency in the allied (chiefly continental) countries which enabled them to buy what was not given to them out of the goodness of the heart and the pity of the world across the seas. Where some food was found (chiefly in the agricultural regions of Central and Eastern Europe), the transportation system was so broken down that it could not be carried to where it was needed, the currency was so worthless that the farmer did not want to part with good wheat and rye and maize for colored paper. The cities which needed the bread had no tools to give for it in exchange, tools for which the peasant was clamoring. The large estates which worked with machines could not get machines, while the peasant who worked with draft animals found

[1] *The Economic Consequences of the Peace*, by John Maynard Keynes, Representative of the British Treasury at the Peace Conference, New York. Harcourt, Brace and Howe, 1920.

their number cut down by disease, ravages, army and civilian consumption to about 25 per cent of the pre-war number.

For over four years Europe had been putting forth all her efforts in making ammunitions and war materials, and all the rest of the industrial plant was lying idle or nearly idle. There were no men to work it, no raw material to work with and, finally, no markets to work for in those countries which lived by working for foreign markets. And where all these evils were at a minimum and things looked brighter, there hung the shadow of a demoralized transportation system.

But that was not all. There was no bread, but there was wine. There were no houses, but amusement palaces were being built by the dozens. There were no garments with which to keep warm, but more silk hosiery and laces were being bought than ever before. There was no money, but borrowing on an unparalleled scale kept on as during the good old days of the war, borrowing for the purposes of maintaining the armies for "peace." A miracle happened every month or so; billions flowed from an apparently empty hat. The city streets presented a gay and crowded appearance with army officers in large numbers in their resplendent uniforms and a surging busy-appearing mob. In the homes, a death in the morning, a funeral in the afternoon and a dance in the evening. The face of Europe shone with the brilliant color of a consumptive.

And what was Europe's mental attitude? The military leaders, particularly those on the winning side, were pleased; in fact they were sorry that the armistice had spoiled "a perfectly good war." But there was still hope. Lightning was to proceed from the East. The freshly-groomed and romantic armies of Poland, of Ukrainia, of Finland were twirling their moustaches and rattling their sabres, waiting for orders from Paris to march on and annihilate the Bolshevik and gather imperishable laurels by overcoming an enemy betrayed for years by his own leaders, ill-equipped and torn by dissension and internecine strife. To those to whom it was not granted to achieve fame in this manner,

the almighty Paris Council had assigned the task of keeping down the German, of pillaging the Austrian, the Magyar, the Bulgar and the Turk. As for Italy, a benevolent providence had provided her with a chance for a fight in another quarter.

And the common people? They were weary, they were angry, they were hysterical. They were looking for a scape-goat. *Somebody* had done all this, *somebody* must be punished. They wanted peace, they wanted revenge, they did not know what they wanted. Above them hung the frightful uncertainty of the morrow. Those that could afford to, ate, drank and made merry, for who knew but that tomorrow might be worse than today.

Under these circumstances what did Europe need? Food first of all, the opening up of those regions which had food or were capable of producing it; then tools, and machinery for making these tools which would serve to provide food; and, finally, credits. To do this required the concerted action of the whole of Europe. Just as Europe divided itself into two groups which pooled their resources and used them to fight each other, these same resources should have been pooled again by both parties and immediate steps taken to make whole again what had been destroyed. Europe needed to be viewed as a unit for purposes of peace just as she was viewed as a unit for purposes of war. A supreme command was needed to win against famine and starvation, just as we needed a supreme command to win against an enemy far less exigent and formidable. For Europe is one and indivisible, born out of the machine process and consecrated by financial arrangements. If the dislocation of the whole production of Europe needed a long time to be remedied, the sooner the beginning was made the better for all concerned. Much of the industrial region of Europe was ruined and the part that was whole should have been set to work that much sooner and harder to make up for that which could not work. Business considerations such as those which feared that the enemy plant, because it had suffered less would thereby gain a business advantage, should have had absolutely no standing in court, be-

cause there would have been no validity in them under a centralized control of the whole system of production. European business was found to be inconsistent with the carrying on of the war and it was equally inconsistent with the establishing of a healing peace. Business competition which aims at cutting down production could not be entrusted to run a Europe whose most crying need was more production, production in the field, in the factory, with the machine, with the hoe—but above all production.[1]

And then the Peace Conference met, and what did Europe get?

Instead of looking at Europe as one economic unit, it looked upon it as a group of mutually suspicious and aggressive political fighting cocks, with equally aggressive and incompatible economic interests. In fact, economic interests were at all times made subsidiary to political exigencies. The diplomats who gathered to "make peace" fiddled away at boundary disputes while Europe was being consumed by hunger and cold. The men who gathered at Versailles spoke and acted as if steam were but a quicker and more comfortable way of bringing them to the Conference; as if machines had never existed except for the purpose of printing their speeches and supplying them with taxicabs; and as if electricity were but a pretty device for lighting their bedrooms; in short they gathered like a Peace Conference would have gathered in the days of Louis the Fourteenth, long before the machine process had completely chained Europe to its wheels. They talked as if in this

[1]M. Evrard: You have just stated that the eight hours' day had a share in the diminution of the output (of coal in France). I believe there to be another reason which could be equally well quoted in order to explain the diminished quota per worker: I believe I am right in saying that in a large number of the mines of the Pas de Calais the owners have stopped working the richer seams and are working the poorer ones. The Government ought to know this fact. The diminution of output is being put down at the present time to the eight hours' day. But it is partly attributable to the fraud of the owners who have purposely given up working the richer seams and are operating on the pooper ones." Debate in French Chamber. Journal Officiel, February 20, quoted in *Contemporary Review*, 1920, p. 564.

war, *for the time being and for the mass of the people*, there could be anything like a division between the conqueror and the conquered.

Instead of enabling Europe to begin production at once by utilizing the existing industrial machinery, it did its best to further demoralize and break it down by attempting to dislocate it in favor of the owners of industrial plants in the conqueror countries, whose plants were not working —either because they had been destroyed or because they had never been created—and against the owners of industrial plants in the conquered countries, whose plants, although greatly diminished and working badly, were yet capable of turning out the products, which a starving, freezing and diseased Europe needed. For example: Saar Valley and Alsace-Lorraine iron ore was worked up before the peace in furnaces mainly situated in Germany. The German furnaces have been deprived of this ore and stand idle, while France is refusing to let the Germans exchange coal for "minette" from Lorraine, probably because she is contemplating building up an enlarged iron industry of her own on the ruins of the German iron industry. In the meantime Europe which was depending upon Germany for tools has to go without them. Similarly with regard to coal. On top of an already diminished coal supply of Europe, German coal has to go to France, Belgium and Italy to make up for the destruction of French and Belgium mines—a thing perfectly fair and just under normal conditions—with the effect that neutral industries which relied upon German coal are prevented from operating, not to say a word about the deep cut in Germany's purchasing power abroad on account of that, with a further diminution of exchange and hence of production. As to transportation, the same system was followed. Central Europe depends upon Germany's system of transportation. This system already demoralized is further impoverished by the demand for deliveries of large amounts of rolling-stock on the basis of an inventory made before November 11, 1918, excluding railways belonging to ceded territories. Transportation on inland waterways was similarly demoralized. In Mr. Keynes words: "The Treaty

strikes at organization, and by the destruction of organization impairs yet further the reduced wealth of the whole community." The foolish fear of being considered pro-German still clouds the minds of many people who can not see that this is not a question of being easy on the Germans but of saving Europe's economic life (and her civilization) from wreck and ruin.

About a fourth of Mr. Keynes' book is taken up with a very detailed discussion of the terms of the treaty regarding reparation. That the provisions of that section of the treaty are immoral because they go contrary to engagements solemnly taken and that they are absurdly extravagant and impossible and dangerously arbitrary, is apparent to any one who reads them. But I am inclined to think that Mr. Keynes understates the ability of Germany to pay, *provided she is allowed to produce and to sell her products.* Only when she is not allowed to do that, then Mr. Keynes' calculations assume the shape of irrefutable truths. For if she were allowed to manufacture and sell her products at the present level of prices—assuming of course that the exchange situation comes back to normal, which it would if Germany could furnish manufactured articles to a world hungry for them—a level which is likely to be maintained for another five, if not ten years, Germany could pay an indemnity infinitely larger than an estimate of her pre-war national wealth would lead us to assume. But that a Germany that can not even feed her own population should be expected to pour forth the billions of indemnity provided in the treaty is sheer folly. I am leaving out of account the further fact that a German population underfed and generally pinched will not submit easily to being worked to the limit in order to pay dividends on bonds held against her in foreign countries. Common sense should have taught allied statesmen that this is one of the safest roads to social revolution that can be devised. German financiers will not be interested in keeping the home working population contented and under law and order that they might swell the pockets of French, British, American or other financiers and investors.

The fact is that the elements that made the treaty had two aims in view which are mutually exclusive. The first was to satisfy home feeling of revenge by making Germany suffer as well as to allay the fears of British and French industry afraid of the ruthless and dishonest German competition. This could be done and was done by ruining German industry, transportation and foreign trade. The second was to allay a growing discontent at home which might have amounted to serious disturbances and would certainly have been followed by a complete change of politicians if allied countries were to find out that, even though they were victorious, they were nevertheless bankrupt and that the laurels of victory were just as heavy a burden as the chains of defeat. Now every child knows that you can't eat your cake and keep it too. Either Germany is ruined and goes into the hands of receivers and then, of course, she can not pay her debts; or if she is to pay her debts she must be kept as a going concern. But if she were kept as a going concern the amount of industrial activity necessary to pay the indemnity would have made Germany one of the foremost, if not the foremost industrial nation of the world, the very thing that the diplomats were afraid of and (allied—if not associated) big business wished to prevent.

Then there was another dilemma. A reestablished Germany could either be aristocratic-militaristic or democratic. Of course the aristocratic-militaristic Germany was out of the question. Not that the European diplomats objected to an aristocratic-militaristic state, but the German kind did not play fair and overdid it so much that it endangered the existence of the milder and more decorous kind. To imagine that Sonino and Orlando are better than Bethmann-Hollweg and Jagow is asking too much of the imagination. But the German kind had fallen into disfavor, it was too greedy. To make the world safe for diplomacy, a militaristic-imperialistic Germany could not be tolerated. There was left the possibility of a reestablished democratic Germany. Of the two brands of democracy, the pink and the red, the pink would naturally be preferred, but what assurance had the diplomats that it was not a disguise for the

old militaristic regime? All evidence pointed to the fact that German Social-Democracy was more addicted to loyalty than to honesty. As to red democracy, the nightmare of bolshevism was too present to the haunted imagination of the statesmen peace-makers to even think of it. What other solution of the difficulty but a Carthaginian peace full of "guarantees" for the future?

Let me make this clear. If the treaty is the work of one man, it is the work of Clemenceau. Mr. Keynes has a chapter on the Conference containing a most vivid picture of the four men who shaped the fate of the world in 1918-1919, which will come to every American reader with a shock like that of a galvanic battery. Relevant to the main discussion, are only the figures of Clemenceau and Wilson. Both Lloyd George and Orlando played into the hands of Clemenceau for purely personal political reasons. In order to keep himself in power Lloyd George had promised to the electorate that he would punish Germany and hang the Kaiser. The Italian delegates—chiefly Sonino, Orlando was really only his mouth piece—also fell in line with Clemenceau's scheme because they had nothing to contribute except a stubborn, imbecile, unimaginative "sacred egoism." This was in reality little more than an attempt to keep themselves in power—Sonino had an imperialistic policy—by bringing home a large bagful of spoils. For unless they could do that, they could not face, politically, their opponents, the Giolittians, who were sure to point out to them that they (the Giolittians) could have gotten just as much by staying out of the war as Orlando and Sonino did by sacrificing 500,000 Italian lives and piling up a huge national debt. Italian politicians have a great talent for Realpolitik.

So then the whole matter depended upon Clemenceau's views of the situation. Mr. Keynes has given us a masterful picture of the man and his outlook. "He is an old man and he shows it. Cynical, silent and aloof...whose most vivid impressions...are of the past...one who took the view that European civil war is to be regarded as normal... European history is to be a perpetual prize-fight of which France has won this round..." How could such a man

have any confidence in or any use for a preventive peace? "The Fourteen Points of the President could only have the effect of shortening the interval of Germany's recovery and hastening the day when she will once again hurl at France her greater numbers and her superior resources and technical skill. Hence the necessity for "guarantees"; and each guarantee that was taken, by increasing irritation and thus the probability of a subsequent *Revanche* by Germany, made necessary yet further provision to crush." It was the outlook and the policy of a man who had learned nothing since 1870 except revenge. And this was also the outlook and the policy of official France. There can be no doubt that it had popular support because the French people were thoroughly frightened at the Germans. In addition came the fact that this policy of crushing—as pointed out above—was felt to be necessary because of the very serious financial situation in which France found herself. There seems to be a curious fear on the part of French statesmen to impose burdens upon their people which would make them see the truth. It is seen, for example, in the increase in taxation in France and Britain during the war. "Taxes increased in Great Britain during the war from 95 francs per head to 265 francs whereas the increase in France was only from 90 to 103 francs." It is known that the Government sold bread to the people at a loss. If we compare further the retail prices in France and Great Britain during the war we see this:[1]

| | Great Britain | France | |
|---|---|---|---|
| | | Paris | Other Towns |
| 1914 (July). . . . . | 100 | 100 | 100 |
| 1915. . . . . | 132 | 122 | 123 |
| 1916. . . . . | 161 | 132 | 142 |
| 1917. . . . . | 204 | 183 | 184 |
| 1918. . . . . | 210 | 206 | 244 |
| 1919. . . . . | 217 | 261 | 293 |

Prices increased faster and went higher in Great Britain than in France because the Government in France felt the

[1]Supreme Economic Council, Monthly Bulletin of Statistics, Vol. I, Bulletin No. 9, 1920, p. 17.

need to interfere and keep the people contented. Otherwise the greater scarcity in France would have shown a different table. After the armistice the Government relaxed its vigilance, the danger having passed, we see French prices soaring higher than the British. It was especially the population of Paris (remembering '48 and the Commune) that had to be kept contented and placated. Germany had to be crushed to keep the enemy from the gate, Germany had to be made to pay to keep peace at home. From whichever angle one looked at it, given the supreme position occupied by France in the peace deliberations, nothing but a Carthagenian peace could be expected. Official France was frightened, cynical and—antiquated. She had no faith in Germany that she ever could be a good neighbor, she had no faith in France that she could stand the truth, she had no faith in the world that she ever could be organized to avoid or minimize war. For the first time in her long life France failed to assume her role as the leader of mankind in general and generous ideas, for the first time she failed to see life clearly and see it whole—and at a time when mankind needed such a vision as she has never needed it before. The fear of Germany made her blind—to have so blinded France was the greatest German atrocity.

But what of Wilson?

The accents in which Mr. Keynes speaks of the President in that famous chapter on the Conference betray the anger of despair of one who has been cheated of his most cherished hopes. In spite of his partial recantation,[1] the fact remains the same and needs to be explained.

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[1]"I have recently received a personal letter from Mr. Keynes, and I think that it is entirely proper that I should refer to that personal letter, because Mr. Keynes goes a long way toward making one of the chapters—that which deals with President Wilson—clear. He regrets, he says, that his book or any part of it has been taken to be an attack upon the President. He felt it necessary to say what he did about the President, he explains, because otherwise his case would not have been convincing to the English public. So high was the esteem in which President Wilson was held by English liberals, that it would have been very difficult to have induced them to agree with the soundness of Mr. Keynes strictures upon the Treaty, in view of

When Europe was going through the keenest agony of the war and men's minds were wondering if all this was really worth while—when the morale was low—there was needed a reassuring voice that it *was* worth while. It was worth while because of the great fruitage that was to come from all this devastation; that this devastation was not really a devastation but a plowing of the field that a better and more beautiful harvest might spring from it. There were skeptics who wondered how love could be born of hate, but most of fighting Europe wanted to believe that it could, otherwise they saw no worth in what they were doing. The allied statesmen and diplomats may or may not have believed that anything better would come of it than has always come from war: a conqueror and a conquered, but since they wanted to be the conquerors and they needed the support of their people, which could be maintained only on condition that they be convinced that it *was* worth while, the diplomats also looked for such a voice. And the voice came from America. The President's speeches and declarations supplied the very thing to those who wanted a statement of war aims for the war that was to end war as well as to those who needed a screen behind which to carry to a conclusion the war of conquest. From then on the allies never spoke except with the voice of Wilson—although they acted with the hands of Essau. The group of liberals in England and the handful in the United States thanked God for Wilson because they felt that for the first time in history the leader and spokesman of a great warring aggregation had come forward with a definite human program instead of a diplomatic program. Liberals and socialists and radicals for-

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the fact that it had President Wilson's approval. That in itself is a tribute to the President. Mr. Keynes found it necessary, therefore, to explain in simple human terms the reasons why in his belief the President himself was deceived with respect to the real nature of the Treaty...

May I add another quotation from Mr. Keynes' letter, previously referred to. "Of course," writes Mr. Keynes, "I recognize that President Wilson was the noblest figure at Paris." Allyn A. Young before the Luncheon Discussion under the Auspices of the League of Free Nations Association. Reported in their Bulletin, Vol. I, No. 2, p. 5.

sook their doctrines and flocked to Wilson's banner, for whether or not they agreed with him in other things, of one thing they felt sure: when peace is made he would be there to represent humanity and the future. For unless this was done, civilization was doomed to defeat. People who had been critical and blasé were thrilled for the first time in many long years. The common people of Europe (both friend and foe) looked upon him as their saviour and the liberals as their leader and spokesman. The new world was to be built up on Fourteen Points.

And the peace came. To the utter amazement of the liberals, the President signed his name to a document which did precisely the opposite of what he had promised to do. To an earth dying in the flesh was held out the heaven of a League of Nations—the flesh did not matter, the spirit it was that counted. Tomorrow the Kingdom of Heaven arrives. Wait. Tomorrow! But today, now? If we die today, how can we live tomorrow? said the liberals. Of what good is the League if there are no nations, if Europe disappears? Of what good to prevent war tomorrow if we are destroyed today by a peace that is worse than war?

Yet Mr. Keynes and the Liberals do not see the position of the President in its fullness. Suppose he had wanted to bring both a healing and a preventive peace, what were the elements with which and against which he was working? Let us remember that the elements in control at Paris were the very elements opposed to a Wilson Peace. How could Wilson have overcome them? What chance did he have "in the hot and poisoned atmosphere of Paris?" With what voice could he speak so as to carry conviction to the hearts and minds of the most hardened diplomatic sinners of Europe? With the voice of America and the voice of the voiceless millions of Europe. What happened in America before he sailed? His own people formally repudiated him by electing a Republican Senate against his personal pleadings. Insofar as the President stood for a genuine peace he had only the half-hearted support of his own people who were platonically interested in world peace and a League of Nations—if it did not interfere with other things. The

mass of our people were possessed of an abysmal ignorance of what was involved in the framing of a peace treaty and no one made any effort to enlighten them. Not only that but the vicissitudes of carrying on the war made those in authority feel that nothing should be said about peace until the war was over, lest the morale of the people suffer thereby. Finally, the very people who could have stood by the President, were either never consulted or silenced when they spoke. By his own temperament, as well as by the exigencies of the situation, the President was a lonely man. Without support in his own country; with a hostile Senate; with an opposition which, more interested in war than in peace, kept a watchful eye on any deviations from a "crush the Germans" program and which identified European democracy with "bolshevism"; with but one fundamental idea, The League of Nations, which would have been enough in a Europe *before* the war but too late or premature in a Europe after the armistice; with a European press hostile and our own Republican (majority) press equally so; what could the President have done? True to his general fundamental idea he felt that if only he could get the League set up, the world would be in the possession of an instrument which would automatically take care of all the difficulties, not realizing that the difficulties were so serious as to annihilate the value of the League—he fought for his principle and for that only. He won with one hand and lost with the other, and knowing his utter isolation he was too timid to realize that what he had lost made worthless what he had won. He may have realized that he could do nothing with the diplomats and he actually tried to appeal to the people over the heads of the diplomats, but the people to whom he appealed had no means of expressing themselves, as was seen in the case of Italy. The Italian Chamber, which was never accused of being a democratic instrument, naturally stood by its representatives. The radical elements in Europe who could be said to be interested in a fundamental peace carried on them the taint of bolshevism, and Mr. Wilson was afraid of bolshevism. The elements that had power were against him; the elements that were for him, had no

power, no organization, no instruments of expression. Again I ask, what could the President do? He could have washed his hands of the whole business, returned to America and let Europe stew in her own juice. I think that most Americans would just as leave have had that. But to him it would have meant giving up the greatest dream of his life: The League. That is too much to expect of any human being! He could, he should, have played the tactics of Clemenceau, the tactics of shrewd, unscrupulous, cat-like politics—for the public good. He could, he should, have resorted to wire-pulling and manipulating strategy, a strategy based on a familiarity of at least a quarter of a century with the filthiest sewer of European diplomacy—again for the public good. Or, finally, he should have come to the peace table with the aid of a most perfect corp of experts whose business should have been to settle all details in the spirit of his general scheme of a healing preventive peace. None of these things the President did, because—God did not make him that way!

University of Texas. MAX SYLVIUS HANDMAN.

KIMBALL, EVERETT. *The National Government of the United States.* New York: Ginn & Company, 1920. Pp. V, 629. $2.50.

Chapters one and two are historical accounts of the development of the state and federal constitutions. Chapter three gives the struggle for the constitution made in the Federal convention and the ratifying state conventions. Chapter four is a development of Federalism, marking the line between the powers of the states and the nation. Constitutional cases are made the basis of this discussion.

Chapters five to seven, inclusive, deal with the rise of party government. The growth, the organization and the functions, of political parties in a democratic state, are discussed. The author is of the opinion that government is a matter of law, political parties to the contrary notwithstanding. This is a typically American point of view, but as a matter of fact, the constitution itself has not been

able to resist a modification and expansion by Congress, administrative officials, and the Supreme Court. The law becomes a very human thing in the hands of man, and it may be seriously doubted whether government is even primarily a matter of law.

The remainder of the book is devoted to national administration. That is, out of twenty-two chapters, fifteen deal with the powers of the President, Cabinet, Congress, the federal courts, and various boards and commissions, and territorial government. The most useful chapters in this part of the volume are those on finance, regulation of interstate commerce, and federal police power.

The chapter on regulation of interstate commerce is a succinct development of the powers of the national government granted by the constitution but not exercised extensively until the complexity of American commercial life required or compelled it. This development is shown primarily through judicial decisions, the citations of which include the most recent cases such as the Minnesota Rate case and the Shreveport case. These last cases, the latter of which is an exercise by the court of a dictum laid down in the former, almost leave the states with their commissions set aside. The Shreveport case says: "Whenever the interstate and intrastate transactions of carriers are so related that the government of one involves the control of the other, it is Congress, and not the state, that is entitled to prescribe the final and dominant rule."

This chapter sets forth the legal side of regulation of interstate commerce. The discussion would be more helpful and intelligible if the author had discussed some of the major economic problems involved in this regulation. In reading the decisions of the Supreme Court dealing with the powers of the interstate commerce commission, one is almost appalled at the complex economics which the courts are compelled to understand in order to apply the law. In this discussion the work of the commission is scarcely mentioned. The student of government, it seems to me, would be primarily interested in the work of the commission. Its

establishment, its fall and rise, constitute an interesting chapter in the triumph of an administrative agent. The commission as the real administrative agent of the government, in regulating commerce, should have been discussed rather than judicial discussion, if either had to be omitted. Its powers have been greatly increased by the Cummins-Esch Act of 1920.

There is no bibliography either at the close of the chapters or at the close of the book. A book that is distinctively a college text should not only stimulate the student but also direct him to the material by which he could carry his investigation further.

The volume as a whole will supply a needed text for an advanced course in national government in which the emphasis is to be laid on the administrative side. It is a rather successful attempt to combine the older idea of historical government with actual administration.

University of Texas. C. P. PATTERSON.

# APPENDIX

## THE CONSTITUTION OF THE REPUBLIC OF URUGUAY*

(Adopted by popular vote November 25, 1917. Effective March 1, 1919.)

### SECTION I

#### THE NATION AND ITS SOVEREIGNTY

#### CHAPTER I

Article 1. The Republic of Uruguay† is the political association of all persons living within its territory.

Article 2. The same is and always shall be free and independent of every foreign power.

Article 3. It shall never be the patrimony of any individual or family.

#### CHAPTER II

Article 4. Complete sovereignty rests fundamentally in the nation, to which belongs the exclusive right to establish its laws in the manner hereinafter approved.

#### CHAPTER III

Article 5. All religious cults are free in Uruguay. The State supports no religion. The state accords to the Catholic Church the control of all places of worship which have been constructed wholly or in part out of funds from the national treasury, excepting only the chapels intended for the use of asylums, hospitals, prisons, or other public establishments. The State likewise declares all places of worship consecrated to the observance of the various religions free from all manner of taxation.

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*Translated by H. G. James from the official text of the proposed constitution, published by the Minister of the Interior at Montevideo, 1917.

†The official designation in Spanish is *"República Oriental del Uruguay."* The term *oriental* dates from the earlier designation of "La Banda Oriental" referring to its location on the eastern shore of the Uruguay river. In English usage the word eastern or oriental is commonly omitted.

## SECTION II

### THE RIGHTS OF CITIZENSHIP AND THE MANNER OF THEIR SUSPENSION AND LOSS

### CHAPTER I

Article 6. Citizens of the Republic of Uruguay are either natural or legal.

Article 7. Natural citizens are all persons born in any part of the territory of the Republic. Furthermore, the children of Uruguayan fathers or mothers, wherever they may have been born, are natural citizens upon becoming inhabitants of the country, and being inscribed on the civil register.

Article 8. The following are entitled to legal citizenship: Foreign householders who, engaging in any science, art, or industry, or possessing any capital in circulation or property in the country, reside three years in the Republic; foreigners, not householders, who possess any of the above qualifications, together with four years residence in the country; those who may obtain it by special grant of the legislature for notable services or distinguished merit.

### CHAPTER II

Article 9. Every citizen shares in the sovereignty of the nation, and enjoys the right to vote and to be elected to office under the conditions and in the forms hereinafter determined.

The right of suffrage is to be exercised in the manner determined by law, but on the following principles:

1. Obligatory inscription in the civil register.
2. Police officials and active members of the military shall abstain, under penalty of removal from office, from membership on political committees or in political clubs, from subscribing to party manifestoes, and in general, from engaging in any other public act of a political character except that of voting.
3. The secrecy of the vote.
4. Integral proportional representation.

All elective bodies designated to function in matters of suffrage shall be chosen on the basis of the principles established in this article.

Article 10. The recognition of the right of active and passive suffrage for women, either national or local or both, can be accorded only by a two-thirds majority of all the members in each chamber of the legislature.

Article 11. Every citizen is eligible for public employment.

### CHAPTER III

Article 12. Citizenship is suspended: First by physical or mental incapacity which interferes with free and independent labor; second, by enlistment as a private soldier; third, by criminal prosecution which may result in corporal punishment; fourth, until the completion of eighteen years of age; fifth, by judicial sentence imposing exile, imprisonment, incarceration in a prison or penitentiary, or political disability during the term of the sentence.

### CHAPTER IV

Article 13. Citizenship is lost by naturalization in another country, it being sufficient in order to recover it to become domiciled in the Republic and inscribed in the civil register.

## SECTION III

### THE FORM OF GOVERNMENT, AND ITS DIFFERENT POWERS

### SINGLE CHAPTER

Article 14. The Republic of Uruguay adopts as its form of government that of a representative democracy.

Article 15. It entrusts the exercise of its sovereignty to the three principal powers, legislative, executive, and judicial.

## SECTION IV

### THE LEGISLATIVE POWER, AND ITS CHAMBERS

### CHAPTER I

Article 16. The legislative power is entrusted to the General Assembly.

Article 17. This is to consist of two chambers, one of representatives and the other of senators.

Article 18. The General Assembly shall have power to,

1. Pass and order published the codes.
2. Establish the courts and regulate the administration of justice.
3. Enact laws relating to the independence, security, tranquillity, and order of the Republic, and the protection of all individual rights, and the furtherance of education, agriculture, industries, and internal and foreign commerce.
4. Approve or disapprove, increase or diminish the proposed expenditures presented by the executive; determine the taxes necessary to cover them, their distribution, and the manner of their collection and disposal; repeal, modify, or increase the existing taxes.

5. Approve or disapprove, in whole or in part, the accounts presented by the executive.

6. Incur the national debt, consolidate it, designate its guarantees, and regulate the public credit.

7. Declare war and approve or disapprove treaties of peace, alliance, or commerce, and any other treaties which the executive may make with foreign powers.

8. Designate each year the armed forces necessary in time of peace and of war.

9. Create new departments by a two-thirds vote of the total membership in each chamber, and define their duties; establish harbors; impose customs duties; and regulate imports and exports.

10. Determine the weight, legality, and value of the coin, fix the character and denomination of the same, and regulate the system of weights and measures.

11. Permit or prohibit the entrance of foreign troops upon the territory of the Republic, determining in the first case the time for their departure. Exception shall be made in the case of forces entering simply to render honor, in which case their entrance shall be authorized by the President of the Republic.

12. Prohibit or permit the departure of national forces from the Republic, determining in the latter case the time for their return.

13. Create or abolish public offices; determine their duties; designate, increase, or diminish their perquisites and retiring allowances, confer pensions or rewards of pecuniary or other nature; confer public recognition for distinguished service.

14. Confer pardons or amnesties in extraordinary cases by a vote of at least two-thirds of each chamber.

15. Establish regulations for the militia and determine their number and conditions of service.

16. Choose the place in which the chief authorities of the nation shall reside.

17. Approve or disapprove the creation and regulation of any banks to be established.

18. To name in joint session of both chambers the members of the High Court of Justice.

19. To settle conflicts of jurisdiction between the National Council of Administration and the President of the Republic.

## Chapter II

Article 19. The Chamber of Representatives shall consist of members chosen by direct vote of the people in the manner to be prescribed by the election law.

Article 20. Throughout the whole extent of the Republic elections for representatives shall be held on the last Sunday of November.

Article 21. The term of office of representatives shall be three years.

Article 22. To qualify for representative, there is required active natural citizenship, or active legal citizenship of five years standing, and in either case, the completion of the twenty-fifth year of age.

Article 23. The following may not be representatives: Military employees, or those employed for hire by the executive or judicial branches of the government, with the exception of those on the retired list, or those who are superannuated.

Members of the military who renounce their duties and remuneration in order to enter the legislature will retain their rank; but during their legislative service they may not be advanced, they shall be exempted from all military discipline, and the time during which they perform the legislative function shall not be counted with reference to the influence of age on advancement.

Article 24. Chiefs of police, judges, and fiscal officials may not be elected representatives in the departments in which they function, nor may members of the military be elected in the district in which they exercise command or perform any military function, unless in any case they resign six months before the date of election.

Article 25. The jurisdiction of the chamber of representatives shall comprise,

1. The initiative in imports and taxes, taking into account the modifications proposed by the senate.

2. The exclusive right to impeach before the senate the members of the executive branch and their ministers, as well as the members of both chambers and of the high court of justice for crimes of treason, rebellion, malversion of public funds, violation of the constitution, or other serious offenses, after having considered them upon petition of one or more of its members, and having declared that there was a cause for action.

## Chapter III

Article 26. The Chamber of Senators shall consist of as many members as there are departments of the Republic, one for each department.

Article 27. They shall be chosen by indirect election in the manner and at the time the electoral law may designate.

Article 28. Senators shall serve for six years, one-third being renewed each biennium.

Article 29. Qualifications for senators include either active natural citizenship, or active legal citizenship of seven years duration, and in either case, the completion of thirty-three years of age.

Article 30. The disqualifications imposed upon representatives in articles 23 and 24 shall apply equally to senators.

Article 31. Any citizen elected simultaneously for senator and representative may choose the office which he prefers.

Article 32. Neither senators nor representatives, after having been admitted to their respective chambers may accept appointments from the executive without the consent of the chamber to which they belong, in consequence of which acceptance their seat shall be vacated.

Article 33. Vacancies which result in this or any other matter during the sessions of the legislature shall be filled by alternates selected at the time of the election in the manner to be provided by law, without the necessity of a new election.

Article 34. No one may be reelected to the office of senator until after an interval of at least two years.

Article 35. Senators and representatives shall receive a remuneraation for their services by means of a monthly allowance during their term of office to be determined by a two-thirds vote of the assembly, and by a special resolution in the last sitting of each legislature for the members of the succeeding one. This compensation shall be paid them absolutely free from interference by the executive.

Article 36. The Senate shall have jurisdiction to try those accused by the Chamber of Representatives, and to pronounce judgment, with the concurrence of at least two-thirds of the votes, such judgment extending only to removal from office.

Article 37. Persons convicted and adjudged guilty shall nevertheless remain subject to accusal, judgment, and punishment in conformity with the law.

## SECTION V

### THE SESSIONS OF THE GENERAL ASSEMBLY, AND THE INTERNAL GOVERNMENT OF ITS TWO CHAMBERS AND OF THE PERMANENT COMMISSION

### CHAPTER I

Article 38. The General Assembly shall begin its sessions on the 15th of March of each year, remaining in session until the 15th of December, or until the 15th of October in case an election of representatives occurs, in which case the new Assembly shall begin its session on the 15th of the following February. The Assembly shall meet at the time indicated without necessity of being specially convoked by the executive. For grave reasons, the chambers, as well as the executive may omit the recess.

### CHAPTER II

Article 39. Each chamber shall be sole judge of the qualifications and election of its members.

Article 40. Each chamber shall be governed by rules formulated by itself.

Article 41. Each chamber shall name its president, vice-presidents, and secretary.

Article 42. Each chamber will determine its annual expenses, and will notify the executive of the same, that he may include them in the general budget.

Article 43. Neither chamber may open its sessions unless more than one-half its membership is present, and if this should not be the case on the date indicated by the constitution, the minority may meet to compel those absent to attend, under penalty.

Article 44. The chambers shall communicate in writing with each other and with the executive through their respective presidents, and with the signature of a secretary.

Article 45. Neither senators nor representatives shall ever be held responsible for opinions, discussions, or debates rendered, pronounced, or sustained during the performance of their functions.

Article 46. No senator or representative, from the day of his election until the end of his term of office shall be subject to arrest, except only in case of flagrant offense, and then immediate notice must be given to the chamber concerned, with a summary of the facts.

Article 47. No senator or representative, from the day of his election until the termination of his office shall be criminally accused, not even for ordinary offenses not enumerated in Article 25, except before their respective chambers, which, by a two-thirds vote shall determine whether or not there is cause for action; and in case they decide affirmatively, they shall declare him suspended from office, and he shall be subject to the jurisdiction of the competent tribunal.

Article 48. Each chamber may, furthermore, by a two-thirds vote, correct any member for disorderly conduct in the performance of his duties, or remove him for phpsical or moral incapacity, following upon his taking his seat; but a simple majority shall suffice to accept the resignation.

Article 49. Each legislator may request from the ministers of state the facts and information which he considers necessary for the performance of his duties. The request shall be made in writing, and through the channel of the president of the respective chamber, who will transmit it directly to the ministers.

If the minister does not furnish the information, the legislator may request it through the medium of the chamber to which he belongs.

Article 50. Each chamber has the right by resolution of one-third of its members to require the ministers of state to come before it in order to question them and receive the information which it deems desirable, whether for legislative, investigative, or fiscal purposes.

Article 51. The chambers may appoint parliamentary committees for investigation or for submitting facts for legislative purposes.

### CHAPTER III

Article 52. When the Assembly is in recess, there shall be a permanent commission composed of two senators and five representatives, both named by a majority vote of their respective chambers, indicating in the case of the senators which shall be president and which vice-president.

Article 53. At the time of this election, there shall also be chosen an alternate for each of the seven members who shall enter upon the duties of the latter in case of his sickness, death, or other disqualification.

Article 54. The permanent commission shall watch over the observance of the constitution and the laws, keeping the executive informed for this purpose, subject to responsibility before the General Assembly.

Article 55. In case such notice is twice given without effect, the permanent commission may of its own accord, depending upon the gravity and importance of the affair, convoke the general assembly in regular or special session.

Article 56. The permanent commission shall also have power to give or withhold its consent to all those acts for which the executive must have approval, as determined by the present constitution and the powers granted to the chambers in Article 49 and following.

## SECTION VI

### THE PROPOSAL, DISCUSSION, SANCTION, AND PROMULGATION OF THE LAWS

### CHAPTER I

Article 57. Every proposed law, except those enumerated in Article 25 may originate in either chamber by motion of any of its members, or of the executive through its ministers.

### CHAPTER II

Article 58. If the chamber in which the bill originated approves it, it must pass to the other chamber which, after discussion, may also approve, amend, add to, or disapprove it.

Article 59. If either chamber to which a bill is sent returns it with additions or observations, and the one which sent the bill approves of them, it will notify the other in reply, and the bill will pass to the executive; but if it does not approve of the additions or observations and insists upon its bill as originally proposed, it may, in that case, officially request a joint session of both chambers and, depending upon the result of the discussion, the bill will be passed upon receiving a two-thirds vote.

Article 60. If the chamber to which a bill is sent has no reason to oppose it, it will approve, and after notifying the first chamber, will send the bill to the executive to be published.

Article 61. If the executive, upon receiving a bill, should have objections to enter or observations to make, he will return the same with the bill to the president of the Senate within a required period of ten days.

Article 62. When a bill is returned by the executive with objections or observations, the chamber to which it is returned will request the other for a joint session, and the bill will become a law by a three-fifths vote of the members present.

A majority of the votes of the Assembly shall be sufficient in the case of bills concerning the promulgation of which a difference of opinion occurs between the President of the Republic and the National Council of Administration.

Article 63. If the chamber in joint session disapprove a bill returned by the executive, it shall remain suppressed for the present, and may not be presented anew until the following legislature.

Article 64. In every case of reconsideration of a bill returned by the executive the voting shall be by name by "aye's" and "no's," and the names of those voting with their reasons, as well as objections and observations of the executive, shall immediately be published in the press.

Article 65. When a bill shall have been disapproved at the outset by the chamber to which the other has sent it, it shall remain suppressed for the present, and may not be presented anew until the following meeting of the legislature.

## Chapter III

Article 66. If the executive, having received a bill, has no cause to oppose it, he will give notice immediately, there remaining only the sanction to be given for its promulgation as a law without delay.

Article 67. If the executive does not return a bill within the ten day limit established by Article 61, it will have the force of a law, and will be published as such; due announcement being made, in case of omission, by the chamber which sent it.

Article 68. When a bill returned by the executive with objections and observations has been reconsidered by the chambers in joint session, if they approve it anew they will give it the final sanction, and it having been announced to the executive, he will cause it to be promulgated at once without further consideration.

## Chapter IV

Article 69. The formula for the promulgation of a law duly sanctioned will be as follows "The Senate and Chamber of Representa-

tives of the Republic of Uruguay, meeting in joint session, etc. declare. . ."

## SECTION VII

### THE ATTRIBUTES, DUTIES, AND PREROGATIVES OF THE EXECUTIVE

### CHAPTER I

Article 70. The executive power is entrusted to the President of the Republic and the National Council of Administration.

### CHAPTER II

Article 71. A President of the Republic shall be elected directly by the people by a simple majority of votes by means of the simultaneous double vote, and under the conditions of suffrage established by Section II, the Republic being considered as a single district.

Election of the President of the Republic shall take place on the last Sunday of November.

Article 72. For election to the presidency there are required natural citizenship and the other qualifications prescribed for senators by Article 29.

Article 73. The term of office of the President shall be four years, and he may not be reelected nor serve as President during an interim or unexpired term until eight years shall have elapsed between the end of his term and his reelection. The same requirement is applicable to the President elected for the unexpired term when he shall have served as President for more than one year.

Article 74. Before entering upon the duties of his office, the President of the Republic shall, on March 1 following his election, make the following declaration before the president of the Senate and in the presence of both chambers, and of the National Council of Administration: "I promise upon my honor to perform loyally the duties which have been confided to me, and to guard and protect the constitution of the Republic."

Article 75. In case of incapacity or absence of the President of the Republic, or during the process of a new election because of his death, resignation, removal, or by reason of the expiration of his legal term, he shall immediately be succeeded by a member of the National Council designated by it, whose duties as councilor shall be suspended.

Article 76. In case the Presidency of the Republic remains vacant, the General Assembly shall be convoked to elect, by an absolute majority of votes, the President, who shall fill the office until the first of March following the next election of the members of the council, at which time the new President of the Republic shall be elected.

Article 77. The salary of the President shall be determined by

law prior to each election, and shall not be subject to change during his term of office.

Article 78. The senate shall be judge of the election of the President of the Republic.

## Chapter III

Article 79. The powers of the President shall include:

1. Representation of the State, both internally and externally.
2. The preservation of internal peace and order, and external security.
3. The supreme command of all naval and military forces, which are hereby put exclusively under his direction, except that he may not command them in person without prior consent of the General Assembly, expressed by a two-thirds vote of the members present.
4. The appointment and dismissal of the ministers of foreign affairs, of war and navy, and of the interior, and the subordinates in their departments.
5. The granting or retiring of allowances, the issuance of leaves of absence, and the regulation of pensions of civil and military employees in conformity with the law.
6. The publication and circulation without delay of all laws which, in conformity with Section VI, are ready for publication and circulation, their execution, and the issuance of special regulations necessary for their execution.
7. To inform the legislature at the beginning of the regular session on the state of the Republic, and the measures and reforms which he considers worthy of their attention.
8. To offer objections to and make observations upon the bills submitted by the legislature, and to suspend their promulgation under the restrictions and qualifications provided in Section VI.
9. To propose bills to the chambers, or modifications of those already submitted.
10. To convoke the legislature in special session whenever he shall consider it desirable, with the determination of the affairs calling for the convocation, and without prejudice to the right of the National Council or of either chamber or of that of the permanent commission to suspend in like manner the parliamentary recess.
11. To fill the civil and military offices.
12. To remove officers for incapacity, non-feasance or malfeasance; on the first two grounds with the consent of the senate, or in case of recess, with that of the permanent commission, and in the last case turning over the incumbent to the judiciary for legal trial.
13. To confer military promotion in conformity with the law, the approval of the senate, or in its recess that of the permanent commission, being required in case of colonels or other superior officers.
14. To appoint the consular and diplomatic personnel, with the

obligation in the case of diplomatic chiefs of requesting the approval of the senate or of the permanent commission in case of recess of the former.

15. To name the departmental chiefs of police, selecting them from a list submitted by the national council for each particular case, and to remove them from office.

16. To dismiss the military and police officials.

17. To receive diplomatic agents and to authorize foreign consuls to exercise their functions.

18. To declare war, upon resolution of the general assembly, if arbitration is impossible or has secured no results.

19. To adopt prompt measures of security in serious and unforeseen cases of external aggression or internal disorder, rendering account within twenty-four hours both to the council and to the general assembly, or in case the latter is in recess to the permanent commission, of that which has been done and the reasons therefor, standing by that which the latter shall desire. This power shall be limited by the provisions of Articles 80, 152, and 168.

20. To collect the revenues which, in conformity with the laws, shall be done by his subordinates, and to turn them in to the National Treasury.

21. To recommend in writing or through the medium of the proper ministers to the council proposed laws concerning loans, the imposition or modification of taxes, the preparation of the general budget, coinage and currency, and matters relating to international commerce.

22. To present annually to the council the proposed expenditures for the coming year, and to render accurate account of those made in the preceding year.

23. To conclude treaties, requesting the opinion of the council before signing them, which shall require for their ratification the approval of the legislature.

24. To lend the aid of the public forces upon request of the council or of the judiciary.

## Chapter IV

Article 80. The President of the Republic may not leave the territory of the same for more than forty-eight hours without authorization of the legislature. Nor may he deprive any individual of his personal liberties. In case the public good urgently demands this he shall be limited to the simple arrest of the person with the obligation to put him under the jurisdiction of a competent judge within the obligatory period of twenty-four hours; nor shall he permit the enjoyment of a salary on any other ground than that of active service, superannuation allowance, retirement allowance, or pension, in conformity with the law; nor shall he issue orders without the signature of the

proper minister, lacking which requirement no one shall be obliged to obey them.

Article 81. He may not be accused, except for the offenses and in the manner determined by Article 25; nor may such accusation be made except during the exercise of his office or within six months following the expiration of the same, during which time he shall be required to remain a resident, except in case of authorization by the legislature to leave the country, conferred by an absolute majority of votes. When the accusation shall have been supported by two-thirds of the votes of the chamber of deputies, the President shall be suspended from the performance of his functions.

## SECTION VIII

### THE NATIONAL COUNCIL OF ADMINISTRATION, ITS ATTRIBUTES, DUTIES, AND PREROGATIVES

### CHAPTER I

Article 82. The National Council of Administration shall consist of nine members chosen directly by the people on the last Sunday of November by means of the system of the double simultaneous limited vote, and with the guarantees for the suffrage established in Section 2. Two-thirds of the places shall belong to the list receiving the largest vote and one-third to the party which follows next in the number of votes obtained. Simultaneously with the incumbents there will be elected in the same manner as many alternates.

Article 83. The President of the Republic may not be elected a member of the council by popular vote unless he has terminated his office six months prior to the election.

Article 84. The member of the council receiving first place in the list of the majority in the last biennial renewal shall act as president thereof and in case of resignation, death, or removal, the second on the same list shall act until the close of the biennium.

Article 85. The members of the council shall remain in office for six years, one-third being renewed each biennium, and they shall enjoy the salary which a special law will provide, which salary shall be determined prior to each biennial renewal.

Article 86. The senate shall be judge of the election of councillors.

Article 87. The members of the council shall assume office on the first of March following their election, and shall make the following declaration before the president of the senate and in the presence of both chambers and of the council:

"I promise upon my honor to discharge loyally the office which has been conferred upon me, and to guard and protect the constitution of the Republic."

Article 88. No one may be reelected to the office of councillor until after an interval of two years.

Article 89. For election to the council there shall be required natural citizenship or legal citizenship of fifteen years duration or thirty years of residence, and thirty-three years of age.

### Chapter II

Article 90. At least five members of the council must be present at every session. The president of the council shall have both a voice and a vote.

Article 91. All resolutions of the council shall be revokable by a vote of a majority of its members.

Article 92. The deliberations of the council may be terminated at any time by majority vote. A motion to this effect shall not be debatable.

Article 93. Councillors shall not be entitled to a leave of absence with pay for more than three months, nor for more than a year without pay, and absences without leave from twenty sessions within a period of two years shall terminate their office, whatever may be the reason.

Article 94. When leave of absence is granted a councillor for more than fifteen days, or a permanent or temporary vacancy occurs through any cause, the alternate of the same party chosen at the same election shall assume his office.

Article 95. The council will conduct its business under regulations imposed by itself.

### Chapter III

Article 96. The president of the council shall preside at the sessions, sign the resolutions and communications of the council together with the ministers under whose jurisdiction the matter comes and with the secretary of the council, and also with the latter the rules of procedure; and will represent the council.

### Chapter IV

Article 97. The jurisdiction of the council shall include all matters of administration which have not been expressly reserved to the President of the Republic or to any other authorities, including those relating to public instruction, public works, labor, industries and agriculture, charities, and sanitation; rendering accurate account to the assembly of the collection and expenditures of money during the preceding year; preparing annually the general budget; establishing the necessary measures for holding the elections at the time indicated by this constitution, and for seeing that the electoral law is observed therein, without possessing any power whatever to suspend elections or to change time of holding them, unless the General Assembly shall have previously so resolved.

In all that concerns matters under its jurisdiction it shall also have both the powers and the duties which appertain to the President of the Republic under paragraphs 5 to 12 of Article 79, and under the same limitations as there established.

Article 98. The council shall require the opinion of the President of the Republic in regard to legislative proposals concerning the creation or alteration of taxes, the making of loans, the circulation of coin and currency, as well as those relating to international commerce and the preparation of the general budget. The President shall reply within a maximum period of ten days, his failure to reply within this time being considered as a sign of approval. In case the President shall express his disapproval the council may proceed with its proposal provided it is supported by two-thirds of its members.

Article 99. The council shall not grant to persons under its jurisdiction remuneration on any other ground than that of active service, superannuation, retiring allowance, or pension in conformity with the laws.

Article 100. Autonomous councils will conduct the administration of the different activities comprising the industrial domain of the State, elementary, secondary, and higher instruction, charities and hygiene. Except as the laws make them elective the members of these councils shall be appointed by the national council. The latter shall also have power to remove from office the members of these special councils with the consent of the senate, shall be judge of the conflicts arising over the election of the elective members, shall examine the accounts, take the necessary action in case of liability, and hear administrative cases in accordance with the laws.

## Chapter V

Article 101. Councillors may not leave the territory of the Republic for more than forty-eight hours without authority of the council, accorded by a two-thirds vote; nor may they individually issue orders of any kind.

Article 102. The councillors shall enjoy the same immunities as the representatives and senators. They may be arraigned only by the chamber of representatives before the senate, and for the offenses designated in Article 25 within six months of the termination of their office, after which time no one may bring an accusation. In this regard, the provisions in the last part of Article 81 shall apply.

## Chapter VI

Article 103. The National Council of Administration may authorize any of its members to be present at the sessions of the chambers and to take part in their deliberations, although they may not vote.

Article 104. The office of alternate councillor is compatible with that of the office of legislator. A senator or representative accepting a place in the national council shall be suspended from the exercise of his legislative functions, the respective chamber having authority to call in the alternate during the period of suspension.

## SECTION IX

### THE MINISTERS OF STATE

#### SINGLE CHAPTER

Article 105. In addition to the secretaries of state provided in Article 79 as subordinates of the President of the Republic, there shall be those which the law designates as subordinates of the national council. The council shall appoint and remove from office its ministers by a majority vote.

Article 106. The minister or ministers shall be responsible for the decrees and orders which they sign.

Article 107. For the office of minister there is required, first, natural citizenship or legal citizenship with ten years of residence; second, the completion of thirty years of age.

Article 108. When the chambers open their sessions, it shall be the duty of the ministers to render strict account to each of them of the state of everything concerning their respective departments.

Article 109. After the termination of their office, ministers shall be required to remain in residence for six months, and they may not on any grounds leave the territory of the Republic except by authority of the legislature, conferred by an absolute majority vote.

Article 110. The ministers shall not be relieved of responsibility for the offenses specified in Article 25 by the written or verbal order of the President of the Republic or of the president of the council, which ever one they may be subject to.

Article 111. The office of minister is compatible with that of legislator, but a senator or representative who accepts a position as minister shall be suspended in his legislative functions, his alternate being called in during such suspension.

Article 112. The ministers, even though they are not legislators, may attend the sessions of the chambers and take part in their deliberations, but may not vote.

Article 113. The duties of the ministers in their respective departments and in accordance with the laws and the orders of the President of the Republic or of the council, as the case may be, shall comprise, first, the execution of the constitution, the laws, decrees, and resolutions; second, the preparation and submission for consideration by the higher authorities of legislative proposals, decrees, and resolutions which they may deem desirable; third, enforce the payment of

the recognized debts of the State; fourth, grant leaves of absence to the employees in their departments; fifth, propose the employment or removal of such employees; sixth, exercise administrative direction, adopt the measures adequate to secure efficient administration, and impose disciplinary penalties; seventh, sign and transmit the resolutions of the President of the Republic or of the national council.

Article 114. The duties of the ministers shall be regulated by the national council or by the President of the Republic, depending on which one they are subject to.

## SECTION X

### THE JUDICIAL POWER, ITS VARIOUS TRIBUNALS AND JUDGES, AND THE ADMINISTRATION OF JUSTICE

### CHAPTER I

Article 115. The judicial power shall be exercised by a high court of justice, one or more appellate courts, and judges of first instance in the manner to be determined by law.

### CHAPTER II

Article 116. The high court of justice shall consist of as many members as the law may designate.

Article 117. For membership in the high court of justice there shall be requisite ten years practice of the law or eight years experience as a magistrate; and in any case, the completion of forty years of age and the other qualifications for senator established in Article 29.

Article 118. The judges of the high court of justice shall be appointed by the general asssembly and shall receive from the public treasury a salary prescribed by law.

Article 119. The jurisdiction of the high court of justice shall extend to all violations of the constitution without exception; to all offenses against the law of nations, and to admiralty cases; to matters of treaties or negotiations with foreign powers; to cases involving ambassadors, ministers plenipotentiary, and other diplomatic agents of foreign governments.

Article 120. It shall also have cognizance in the last instance of cases which, under the conditions and forms prescribed by law, are appealed from the appellate tribunals.

Article 121. The high court of justice shall exercise directional, correctional, consultative, and economic supervision over all the courts and judges of the nation.

Article 122. It shall name, with the approval of the senate, or in

case of recess, of the permanent commission, the citizens who shall constitute the appellate court or courts.

Article 123. The law shall establish the procedure for cases in the high court of justice, which shall be public; and the judgment shall be definite and justified by the clear designation of the law applied.

### CHAPTER III

Article 124. For the more rapid and easy administration of justice, there shall be established in the territory of the Republic one or more appellate courts with the number of judges to be determined by law, who shall be natural or legal citizens and shall have practiced for eight years the profession of lawyer, or for six years that of magistrate.

Article 125. Their appointment shall be made in accordance with Article 122. They shall remain in office during good behavior, and shall receive from the treasury the salary provided for them.

Article 126. The law shall determine their powers.

### CHAPTER IV

Article 127. In the various departments there shall be qualified judges with original, civil, and criminal jurisdiction in the manner to be provided by law.

Article 128. For the position of judge of courts of first instance, natural or legal citizenship and the practice of the law for two years shall be required. The law will designate the salary to be paid.

### CHAPTER V

Article 129. There shall also be provided justices of the peace who shall attempt to settle cases that are about to be brought, and no civil case or action for injuries shall be brought without an attempt having been made to settle it by conciliation.

## SECTION XI

### LOCAL GOVERNMENT AND ADMINISTRATION

### CHAPTER I

Article 130. Local government and administration shall be exercised by a representative assembly and by one or more autonomous councils of administration popularly chosen under the electoral guarantees established by Section II, with a membership to be fixed by law.

Article 131. The councils of administration shall be composed of not less than three nor more than seven members.

Article 132. Legislation shall determine; the duration of the representative assemblies, the number of their members, the manner and form of their election and qualifications for election, their jurisdiction, appeals from their resolutions, and the representation of the political parties in the councils of administration.

The law may also accord to foreigners the active and passive franchise.

Article 133. The law will accord to the representative assemblies the power of imposing taxes with the sole limitation that they may not interfere with commerce nor impose interdepartmental duties on articles of national production.

Article 134. The decisions of the representative assemblies establishing or modifying taxes may be appealed to the legislature by one-third of the members of the representative assemblies, by a majority of the council of administration, by the national council, or by three hundred registered citizens. In the three first cases the appeal shall be suspensive in effect.

Article 135. The office of members of the representative assembly shall be honorary.

Article 136. The councils shall have the powers and duties established by law, which shall also establish the recourse against their resolutions.

Article 137. The local authorities shall appoint their employees and shall approve their annual budgets within the resources at their disposal.

Article 138. The councils shall remove municipal officials for incapacity, non-feasance or malfeasance; the first two cases with approval of the representative assembly, with the power to suspend them immediately, and in the last case transferring them after removal to the judiciary that they may be legally tried.

Article 139. The members of the council shall remain in office three years.

Article 140. The number of councillors, as well as their remuneration, shall be fixed by the representative assembly.

Article 141. Twenty-five per cent of the registered citizens in the locality shall have power to initiate measures of local interest. The council of administration shall consider them within sixty days of their presentation.

Article 142. The police shall render its support to the council whenever the latter requires it for the performance of its duties.

## Chapter II

Article 143. In each department there shall be a chief of police, appointed in the manner provided in paragraph 15 of Article 79.

Article 144. For the post of chief of police there shall be required thirty years of age, active citizenship, nativity in the department, or

the condition of householder, with an uninterrupted residence of two years.

Article 145. The police shall be directly subordinate to the President of the Republic, and their expenses shall be part of the general budget.

## SECTION XII

### RIGHTS AND GUARANTEES

### SINGLE CHAPTER

Article 146. The inhabitants of the Republic have the right to be protected in the enjoyment of life, honor, liberty, security, and property.

No one may be deprived of these rights except in accordance with the law.

Article 147. No one shall be born a slave in the territory of the Republic, and the traffic and importation of slaves shall forever be prohibited.

Article 148. Men are equal before the law, be it compulsory, penal, or protective, no other distinction being recognized between them, except that of talent or virtue.

Article 149. Inheritance by primogeniture is forbidden, as well as all classes of entails, and no authority of the Republic may confer any title of nobility or hereditary honors or distinctions.

Article 150. The private actions of individuals which do not attack the public order or prejudice third parties shall be exempt from the authority of the magistrates. No inhabitants shall be obliged to do what the law does not require, nor to abstain from that which it does not prohibit.

Article 151. The home is sacred and inviolable. No one may enter at night without the consent of its owner nor by day except by express order of a competent judge in writing and in the circumstances determined by law.

Article 152. No one may be punished or confined without legal process and sentence.

Article 153. Trial by jury shall continue to be required in criminal cases.

Article 154. No citizen may be arrested except in the commission of the crime or upon the possession of prima facie evidence and upon the written order of a competent judge.

Article 155. In any of the cases falling under the preceding article the judge, under the most serious responsibility, shall receive the declaration of the person arrested within twenty-four hours, and within forty-eight hours at the most he shall institute the summary examination, hearing witnesses in the presence of the accused, and of

his council, which latter shall also be present at the declaration and confession of his client.

Article 156. In case of improper imprisonment, the person apprehended, or any citizen, may invoke before the competent judge the writ of *habeas corpus* to the end that the authority making the arrest shall explain and justify at once the legal grounds for the same, the decision resting with the judge in question.

Article 157. The law shall fix the rules of criminal and civil procedure.

Article 158. Trials by commission shall be prohibited.

Article 159. The accused shall not be put under oath in regard to declarations and confessions concerning their case, and it is forbidden that they be treated therein as criminals.

Article 160. Criminal judgments in default shall equally be forbidden. The law shall make proper provisions in this regard.

Article 161. Every criminal case shall commence with the accusation by an individual or by the public accuser, secret information being abolished.

Article 162. All judges are responsible before the law for the slightest invasion of the rights of citizens, as also for departures from the procedure established by law.

Article 163. The death penalty shall be applied to no one.

In no case may the prisons be used for mortification, but simply for confining those under trial or punishment.

Article 164. In any stage of a criminal case not involving a penitentiary sentence the judge may place the accused at liberty upon bail being given according to law.

Article 165. Private papers, as well as correspondence, are inviolable and never may they be required to be registered, examined, or intercepted, except in those cases which the law expressly prescribes.

Article 166. The communication of thoughts is completely free by word of mouth, by private writing, or by publication in the press, on any subject without the necessity of previous censorship; the author, and in appropriate cases, the publisher, shall be responsible, as determined by law, for the abuses which they commit.

Article 169. The right of property is sacred and inviolable. No one may be deprived thereof except in conformity with the law, in cases of necessity or public utility, receiving from the national treasury a just compensation.

Article 170. No one shall be obliged to render aid of any nature to the military, nor to open his house for the billeting of soldiers, except by order of a civil magistrate in accordance with the law, and he shall receive from the Republic indemnity for the damage suffered in such cases.

Article 171. Every person may follow the labor, agricultural pursuit, industry, or business he chooses, so long as it does not prejudice

the public welfare or that of the inhabitants of the Republic.

Article 172. Every person is free to enter the territory of the Republic to remain therein, and to leave with his property, provided he observe the police regulations, and saving damage to a third party.

Article 173. The enumeration of rights and guarantees made by the constitution shall not exclude the others which are inherent in human beings, or which are derived from the republican form of government.

## SECTION XIII

### THE OBSERVANCE OF PRIOR LAWS, THE INTERPRETING AND AMENDING OF THE PRESENT CONSTITUTION

### CHAPTER I

Article 174. All laws are declared in full force and vigor with regard to all matters which are not directly or indirectly in conflict with this constitution, or with the laws passed by the legislature.

### CHAPTER II

Article 175. Whoever shall violate or render aid in the violation of the present constitution after it has been sanctioned and published shall be known, judged, and punished as guilty of *lesée nation*.

### CHAPTER III

Article 176. The legislature shall have exclusive power to interpret or explain the present constitution, as well as to amend it in whole or in part, subject to the formalities prescribed in the following articles.

### CHAPTER IV

Article 177. The total or partial revision of the present constitution may be initiated by either chamber preparing the amendments which, in order to be approved, shall require a vote of two-thirds of the total membership of each chamber, subject also to the rules established for the sanction of ordinary laws.

Article 178. Amendments approved in the manner provided in the preceding article and published by the national council of administration in the call for elections shall remain subject to ratification by the subsequent legislature.

If the second legislature accepts the amendments by a vote of two-thirds of the membership of each chamber in the same term in which they were proposed and without making any alteration therein, they shall be considered ratified.

When the legislature which takes the initiative has proposed reforms as separate amendments, the second legislature may approve some and not others. If the legislature called to ratify the amendments permits its session to pass without doing so, the amendments will be considered as not proposed.

## TRANSITORY PROVISIONS

### SINGLE CHAPTER

A. The present constitution shall go into effect on March 1, 1919.

B. The guarantees for the suffrage established in Section II shall govern all elections occurring after March 1, 1919.

C. For the elections referred to in the preceding article the provisions of the law of September 1, 1915 and amplifications established up to July 30, 1916 shall govern, as also the laws in existence regarding the number of deputies from each department so far as these laws shall not be changed by a two-thirds vote of all members of each chamber. The provisions of the law of September 1, 1915, which relate to the three-fifths majority shall not be applicable to the distribution of representatives or to other elective officers. The redistribution shall be made by electoral quotient.

D. The President of the Republic who shall serve for the period of 1919 to 1923 shall be chosen in regular session by the general assembly the first of March, 1919 by vote of an absolute plurality of secret votes, which shall be read publicly by the secretary, the provisions of the present constitution governing the qualifications for election.

E. The National Council of Administration and the alternates for the period 1919 to 1925 shall be elected the first of March of 1919 by the general assembly by a majority of its members and the limited list system, and in accordance with the requirements established in the preceding article for the election of the President of the Republic, the requirements of the present constitution with regard to qualifications for election also governing.

The governing authorities of the political party entitled to a minority of the council may veto the choice of two of the candidates chosen by the majority of the legislators, and the same right shall appertain to the governing authorities of the majority party with regard to one candidate and his alternate selected by the minority of the legislators.

F. The councillors and their alternates in the first national council shall be renewed in the following manner:

The first three members on the list shall hold office for six years, the three following for four years, and the three last for two years, the minority party being entitled to the third, sixth, and ninth places on the list.

G. The presidency of the first national council shall be occupied the first two years by the candidate standing first on the majority list.

H. The partial renewal of the national council, which will occur at the close of the first biennium, will take place by public vote, and under the other conditions established by Section II.

I. The local authorities which this constitution provides shall be chosen on the last Sunday in November, 1919, and shall enter upon the exercise of their office the first of January following.

J. The existing municipal employees who are not removable will remain in the office in which they now are, or similar offices to be created, and may not be removed except in cases provided in Article 138.